

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 16887
[REDACTED],	)	
	)	DECISION
Petitioner.	)	
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	)	

This case arises from a timely protest of a State Tax Commission staff (staff) decision adjusting property tax reduction benefits for 2002. This matter was submitted for decision based on the documents in the file. The State Tax Commission has reviewed the file and makes its decision based on the information contained in the file.

[Redacted] (petitioner) filed a property tax reduction benefit application on or about February 19, 2002. The property tax reduction benefit is described in Idaho Code § 63-701. In order to qualify as a claimant for the property tax reduction benefit, an applicant must meet one of the conditions described in Idaho Code § 63-701(1):

- 63-701. Definitions. – As used in this chapter:
- (1) "Claimant" means a person who has filed a claim under the provisions of sections 63-701 through 63-710, Idaho Code. Except as provided in section 63-702(2), Idaho Code, on January 1 of the year in which the claim was filed a claimant **must be** an owner of a homestead **and be**:
    - (a) Not less than sixty-five (65) years old; or
    - (b) A child under the age of eighteen (18) years who is fatherless or motherless or who has been abandoned by any surviving parent or parents; or
    - (c) A widow or widower; or
    - (d) A disabled person who is recognized as disabled by the social security administration pursuant to title 42 of the United States Code, or by the railroad retirement board pursuant to title 45 of the United States Code, or by the office of management and budget pursuant to title 5 of the United States Code; or

- (e) A disabled veteran of any war engaged in by the United States, whose disability is recognized as a service-connected disability of a degree of ten percent (10%) or more, or who has a pension for nonservice-connected disabilities, in accordance with laws and regulations administered by the United States veterans administration; or
- (f) A person, as specified in 42 U.S.C. 1701, who was or is entitled to receive benefits because he is known to have been taken by a hostile force as a prisoner, hostage or otherwise; or
- (g) Blind. (Emphasis added.)

The staff routinely audits the applications that have been submitted to the county where a petitioner lives. During this process, the staff contacted the Veterans' Administration to verify the petitioner's status as a disabled veteran. Because the Veterans' Administration had no record of the petitioner's disability and he did not meet any of the other status requirements of Idaho Code § 63-701(1), the staff sent the petitioner a letter advising him of the intention to deny him the property tax reduction benefit. The petitioner and his wife protested the determination. They said: "Please understand my husband receives a monthly Coast Guard disability check for being a veteran in that service."

The petitioner's income tax return with attachments confirms the petitioner is receiving a pension from the United States Coast Guard. The Coast Guard is not a part of the Veterans' Administration. It is a separate entity entirely. The Coast Guard has a pension plan that is administered by the Coast Guard – not the Veterans' Administration, the Social Security Administration, Railroad Retirement Board, or the Office of Management and Budget.

Idaho Code § 63-701 lists certain specific federal agencies whose disability recognition qualifies a claimant to receive the property tax reduction benefits. The Code is not unclear. The law must be followed as written. If the law is socially or economically unsound, the power to correct it is

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legislative, not within the powers of the Tax Commission. John Hancock Mutual Life Insurance Co. v. Neill, 79 Idaho 385, 319 P.2d 195 (1957).

Unfortunately, the petitioner does not have the disability recognition that is required by Idaho Code § 63-701. Neither the petitioner nor his wife meets any of the other status requirements. The petitioner does not qualify as a claimant for the property tax reduction benefits for 2002. He must be denied the benefit.

The Tax Commission is aware there is some potential this decision could cause a hardship to the property tax reduction applicant. The proper jurisdiction to handle such hardship situations falls with the county commissioners under Idaho Code § 63-711.

WHEREFORE, the decision of the State Tax Commission staff is APPROVED, AFFIRMED and MADE FINAL.

An explanation of the petitioner's right to appeal this decision is enclosed with this decision.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2002.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that I have on this \_\_\_\_ day of \_\_\_\_\_, 2002, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

Receipt No. [Redacted]

[Redacted]

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