

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 17295
[Redacted],)	
)	DECISION
Petitioners.)	
_____)	

This case arises from a timely protest of a State Tax Commission staff (staff) decision adjusting property tax reduction benefits for 2002. The petitioners submitted additional information but did not request a conference. The State Tax Commission has reviewed the file and makes its decision thereon.

The amount of property tax reduction benefits depends on the income received by a claimant and the claimant's spouse--the greater the income, the smaller the benefit. [Redacted] (petitioners) filed a property tax reduction application on or about March 27, 2002.

During a routine audit of the petitioners' application, the staff identified income that had not been listed in the application. According to federal and state income records, [Redacted] received miscellaneous income and interest income in addition to the income stated in the application signed by [Redacted].

The staff sent the petitioners a notice advising them of the omission. Because the petitioners' income had been understated, the petitioners received a benefit amount that was greater than the amount for which they qualified. The petitioners were asked to re-pay the \$162.50 overpayment plus \$2.62 of interest.

In response to the notice, [Redacted] telephoned the auditor. In that conversation, Mr. [Redacted] said he would amend the petitioners' 2001 federal income tax return to reflect the miscellaneous income as business income that was offset by business expenses.

When the staff received a 2001 [Redacted] from the petitioners, the petitioners' file was transferred to the Legal/Tax Policy Division for administrative review.

Idaho Code § 63-701 uses a series of definitions to state the requirements for an applicant to qualify to receive a benefit of full or partial payment of the property taxes assessed on the applicant's primary residence and one acre of land. Idaho Code § 63-701 states in pertinent part effective January 1, 2002:

63-701(2) "Homestead" means the dwelling, owner-occupied by the claimant as described in this chapter and used as the primary dwelling place of the claimant and may be occupied by any members of the household as their home, and so much of the land surrounding it, not exceeding one (1) acre, as is reasonably necessary **for the use of the dwelling as a home.** It may consist of a part of a multidwelling or multipurpose building and part of the land upon which it is built.

"Homestead" does not include personal property such as furniture, furnishings or appliances, but a manufactured home may be a homestead.

(4) **"Household income" means all income received by the claimant and, if applicable, the claimant's spouse, in a calendar year.** (Emphasis added.)

In the present case, the petitioners applied for a property tax reduction benefit for 2002. The benefit amount was based on the petitioners' income for the prior calendar year – 2001. Mr. [Redacted] sent a copy of [Redacted].

The Schedule C showed [Redacted] received gross receipts of \$2,676 with total expenses (before expenses for business use of the home) of \$1,006 and expenses for business use of the home of \$1,670. The result was no profit carried forward [Redacted].

Idaho Code § 63-701(5) states:

"Income" means **the sum of federal adjusted gross income** as defined in the Internal Revenue Code, as defined in section 63-3004, Idaho Code, and to the extent not already included in federal adjusted gross income: (Emphasis added.)

The petitioners' Schedule C, Profit or Loss From a Business, clearly shows the petitioners did not have any income to carry forward [Redacted]. Based on the information contained in the Schedule C, the income amount shown in the petitioners' application should be increased by only the \$112 of interest the petitioners neglected to include.

However, the federal Form 8829 furnished by the petitioners showed 22.29% of the petitioners' home was used for [Redacted] seamstress business. Only 77.71% of the dwelling was used as the petitioners' primary residence.

For the year 2002, the petitioners' property tax reduction benefits were applied on 100 % of the gross market value of the dwelling and one acre. However, new information provided by the petitioners demonstrates only 77.71 % of the dwelling was used for residential purposes. The other 22.29 % of the dwelling was used for commercial purposes. Therefore, the petitioners were entitled to receive property tax reduction benefits on only 77.71 % of the gross market value of the dwelling and one acre.

The Tax Commission finds the Notice of Deficiency Determination should be amended to reflect an adjustment to the amount of property tax reduction benefits to be repaid by the petitioners,

not because of additional income but because only 77.71 % of the dwelling had been used as the petitioners' primary residence.

WHEREFORE, the determination of the State Tax Commission staff is hereby MODIFIED and, as so modified, is APPROVED, AFFIRMED and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioners pay the following property tax reduction benefit and interest for 2002:

<u>BENEFIT</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$109.72	\$2.02	\$111.74

Interest is computed through June 17, 2003.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the petitioners' 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]

[Redacted]

[Redacted]
