

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

|                                 |   |                  |
|---------------------------------|---|------------------|
| In the Matter of the Protest of | ) |                  |
|                                 | ) | DOCKET NO. 17368 |
| [Redacted]                      | ) |                  |
| Petitioner.                     | ) | DECISION         |
| _____                           | ) |                  |

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

[Redacted] (petitioner) filed a property tax reduction benefit application on or about April 12, 2002. Her application was approved, and she received property tax reduction benefits for 2002 based on the total income shown in the application. However, during review of that application and the petitioner's federal income information, the staff discovered the petitioner had received income that was not listed in the application.

The staff sent the petitioner a NODD dated May 12, 2003, advising her of the intention to increase the amount of income reported in her application by the amount shown in the federal 1099 form issued in her name by the [Redacted]. As a result of that adjustment, the petitioner was asked to repay the property tax reduction benefits she received for 2002 plus the accrued interest. The petitioner protested the intended action and asked for an informal conference, which was held on June 23, 2003. The petitioner's son accompanied her to the conference.

During the conference, the petitioner said she did not think it was fair that the [Redacted] County personnel failed to include the railroad retirement in her application as they helped her fill it out using income information she provided that included her railroad retirement.

She asked the Tax Commission not to require her to repay the benefit even though she should never have received a benefit because her correct total income exceeded 2002's threshold of \$20,750.

All property within the jurisdiction of this state is subject to property taxes. A property tax reduction benefit program is available to certain qualifying individuals throughout the state. The benefit is in the form of a payment (either total or partial) of the applicant's property taxes on the dwelling he/she owns and occupies. The payment is funded by state sales tax funds.

The amount of property tax reduction depends on income--the greater the income, the smaller the benefit. However, income is defined differently for the property tax reduction program than it is described in the income tax code. Income for property tax reduction benefits purposes is defined in Idaho Code § 63-701(5) as follows:

(5) **"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:

- (a) Alimony;
- (b) Support money;
- (c) Nontaxable strike benefits;
- (d) The nontaxable amount of any individual retirement account, pension or annuity, (**including railroad retirement benefits**, all payments received under the federal social security act except the social security death benefit as specified in this subsection, state unemployment insurance laws, and veterans disability pensions and compensation, excluding rollovers as provided in section 402 or 403 of the Internal Revenue Code);
- (e) Nontaxable interest received from the federal government or any of its instrumentalities or a state government or any of its instrumentalities;
- (f) Worker's compensation; and
- (g) The gross amount of loss of earnings insurance.

It does not include capital gains, gifts from nongovernmental sources or inheritances. To the extent not reimbursed, the cost of medical care as defined in section 213(d) of the Internal Revenue Code, incurred or paid by the claimant and/or, if applicable, the claimant's spouse, may be deducted from income. To the extent not reimbursed,

personal funeral expenses, including prepaid funeral expenses and premiums on funeral insurance, of the claimant and claimant's spouse only, may be deducted from income up to an annual maximum of five thousand dollars (\$5,000) per claim. (Emphasis added.)

The calculation of income starts with federal adjusted gross income and, thereafter, makes certain additions and deductions. The staff determined the petitioner received \$3,435 from the [Redacted] in 2001 that was not listed in her application. She signed that application just below a statement indicating the information in the application was “true, correct, and complete.” She alone is responsible for the information contained in that document.

The petitioner does not claim the additional income should not be included in determining her eligibility and benefit amount. Rather, she asks the Tax Commission not to require her to repay the benefit she received in error. She submitted a financial statement and a letter asking for consideration.

Property tax reduction benefits are not federal or state income taxes – they are payment of property taxes based on certain qualifying factors including income. Pursuant to the definition of income as stated in Idaho Code § 63-701(5), the [Redacted] retirement the petitioner received during 2001 must be included in her income for property tax reduction benefit purposes.

The question of abating the repayment is addressed in Idaho Code §§63-3047 and 63-3048. Idaho State Tax Commission Administration and Enforcement Rules provide the grounds for compromising an amount due. A liability may be adjusted if one of the following circumstances exists: Doubt as to liability; doubt as to collectibility; or extreme hardship to the taxpayer.

In the present case, the petitioner does not question the liability itself or the Tax Commission’s ability to collect the liability from her. Rather the petitioner asks for the debt to be

dissolved based on the hardship that would be placed on her if she were required to pay the benefit back.

The Tax Commission has carefully reviewed the petitioner's financial statement and the facts surrounding the petitioner's receipt of a benefit to which she was not entitled and her appeal of extreme hardship.

The petitioner's income for 2001 exceeded the \$20,750 income threshold for property tax reduction benefits for 2002. She was not eligible to receive benefits for 2002. The benefits she received were the result of an error in under reporting her income. The Tax Commission is not persuaded to ignore the petitioner's responsibility to repaying that money plus accrued interest. Idaho statute allows for the recovery of benefits paid in error. The Tax Commission finds the deficiency determination is appropriate.

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

WHEREFORE, the Notice of Deficiency Determination dated May 12, 2003, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioner pays the following property tax benefit reimbursement and interest.

|                |                 |              |
|----------------|-----------------|--------------|
| <u>BENEFIT</u> | <u>INTEREST</u> | <u>TOTAL</u> |
| \$420          | \$6.77          | \$426.77     |

Interest is computed through July 15,2003.

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

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

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2003.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that I have on this \_\_\_\_\_ day of \_\_\_\_\_, 2003, 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]