

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 17398
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

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 February 27, 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 had not been listed in the application.

The staff sent the petitioner a Notice of Deficiency Determination dated April 21, 2003, advising her the income shown in her application was being adjusted to include the income shown in a federal 1099 form that was issued in her name. 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 determination.

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 \$21,600 of miscellaneous income in 2001 that was not listed in her application. Further research showed the

miscellaneous income was the result of an investment in a life insurance policy that matured in 2001.

The petitioner submitted copies of various documents to support her contention that the monies were a return on her investments. These document included a copy of a check to the petitioner in the amount of \$21,600 from [Redacted] and a copy of an Annuity Information Sheet. The annuity application and check support the staff's position that the additional income was the result of the pay out of an annuity.

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 annuity proceeds the petitioner received during 2001 must be included in her income for property tax reduction benefit purposes.

As a result, the petitioner's income for property tax reduction benefit purposes is determined to be \$32,432 rather than the \$10,832 that was reported in the application the petitioner filed with [Redacted]. The petitioner's income exceeded the \$20,750 income threshold for property tax reduction benefits for 2002. She was not eligible to receive benefits for 2002.

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.

Idaho statute allows for the recovery of benefits paid in error. The Tax Commission finds the

deficiency determination is appropriate.

WHEREFORE, the Notice of Deficiency Determination dated April 21, 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>
\$701.68	\$11.30	\$712.98

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]

[Redacted]