

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 17442
Redacted],)	
Petitioner.)	DECISION
)	
)	
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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 thereon.

[Redacted] (petitioner) filed a property tax reduction benefit application on or about January 15, 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 that her income total was going to be adjusted to include two liquidated annuities and bank interest that was shown in the petitioner's income records on file with the IRS. The petitioner protested the intended action.

All property within the jurisdiction of this state is subject to property taxes. A claimant who qualifies for property tax reduction is given a benefit for all or a portion of the property taxes on the dwelling he/she owns and occupies. That benefit is in the form of a payment (either total or partial) of the applicant's property taxes. The payment is funded by the state sales tax.

The amount of property tax reduction depends on income--the greater the income, the smaller the benefit. Income is defined differently for the property tax reduction benefit program than it is 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. Both the taxable and the nontaxable portions of liquidated annuities are specifically required to be included in income for this benefit as is bank

interest. The staff determined the petitioner received a gross distribution of an annuity in the amount of \$4,000 that was in her name only and a second annuity distribution in the amount of \$32,567 (\$25,567 of which was taxable) that was in the petitioner's name as co-owner. The petitioner's social security number was the only social security number that was reported in both records. Bank interest in the amount of \$22.00 was reported to the IRS in the petitioner's name and social security number as well.

The petitioner complained at the inclusion of this money in income saying the money was her mother's money that was put in the petitioner's name 15 or 20 years ago so the petitioner could take the money out as her mother had a need for it. She offered that her mother is now 87 years old. The petitioner did not mention the bank interest but did add: "I receive \$590.00 a month – only!"

The petitioner's statement about her total income – the same amount as reported in the petitioner's property tax reduction benefit application – brings questions to mind. Included in the petitioner's income report from the IRS is a statement of mortgage interest paid by the petitioner during the year. The federal 1098 form shows the petitioner paid a total of \$3,452 in mortgage interest during 2001. Social security records confirm the petitioner received \$6,876 for the year. If social security is the petitioner's total annual income and she made the interest portion of her mortgage payments throughout the year, she would only have \$3,424 to pay the principal portion of her mortgage and other living expenses.

When asked to provide a paper trail of the original funds or other verification of the claim that neither annuity belonged to her, the petitioner failed to respond. The petitioner said she did not know how the income was reported and the income taxes were paid to the IRS and the state of Idaho

(a total of \$29,567 of the annuities was taxable). Federal and state filing records do not show a 2001 individual income tax return for the taxpayer.

The liquidated annuities and the bank interest were all in the petitioner's name and social security number. She has provided nothing to show the income created by cashing-out the annuities was not her income.

The petitioner's total 2001 income for property tax reduction benefit purposes (\$43,465) exceeded the \$20,750 income threshold rendering her ineligible for 2002 benefits. Idaho statute allows for the recovery of benefits paid in error. The Tax Commission is not persuaded to ignore the petitioner's responsibility to repay the benefit she received in error plus accrued interest. 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>
\$420.00	\$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]
