

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 17473
[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 thereon.

[Redacted] (petitioner), filed a property tax reduction application on or about April 12, 2002. Based on the income information listed in that application, the petitioner was approved for benefits, which she received in the form of payment of a portion of her 2002 property taxes.

During review of the application [Redacted] the staff discovered the petitioner had received an additional distribution from a pension or annuity from [Redacted]Company and bank interest from [Redacted] during 2001. Neither had been reported in the petitioner's application.

The staff sent the petitioner a Notice of Deficiency Determination dated May 12, 2003, advising her that her income total was going to be adjusted to include the additional income. 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 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 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.)

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 pension or annuity and bank interest the petitioner

failed to list in her application must be included in income for property tax reduction purposes. As a result, the petitioner's property tax reduction benefits for 2002 must be reduced from a benefit not to exceed \$840 to a benefit not to exceed \$660.

Idaho statute allows for the recovery of benefits paid in error. The Tax Commission is not persuaded to ignore the petitioner's responsibility of repaying 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.

BENEFIT	INTEREST	TOTAL
\$180	\$4.10	\$184.10

Interest is computed through September 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

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COMMISSIONER

CERTIFICATE OF SERVICE BY MAIL

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]

\_\_\_\_\_