

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 17618
)	
[REDACTED],)	DECISION
)	
Petitioners.)	
_____)	

This case arises from a timely protest of a State Tax Commission staff's (staff) decision adjusting property tax reduction benefits for 2003. This matter was submitted for decision based on the documents in the file. The State Tax Commission has reviewed the file and makes its decision thereon.

The amount of property tax reduction depends on the household income--the greater the income, the smaller the benefit. The staff adjusted the petitioners' eligibility for property tax reduction benefits by sending them a notice to advise them of the intent to deny their benefits.

[Redacted] (petitioners) filed an application for property tax reduction benefits on or about March 17, 2003. Pursuant to Idaho Code § 707(5), the staff routinely reviews the applications that have been submitted to the county where a petitioner lives. During this process, the staff identified income that had not been accounted for in the petitioners' application.

In a letter dated September 22, 2003, the staff advised the petitioners of the intent to deny them benefits because, when the additional income was added to the income reported in the application, their total income exceeded the \$21,290 maximum allowed for the property tax reduction benefits.

[Redacted] telephoned the staff and then wrote a letter protesting this adjustment. She indicated she was greatly upset because the petitioners were led to believe and, in fact, were told that they were eligible to receive the benefits only to have that eligibility withdrawn. She said it

would be completely wrong to include the monies she received from the Veterans' Administration (VA) as income because it was not income. It was compensation paid to her by the VA for her service-connected disability.

The petitioners' file was transferred to the Legal/Tax Policy Division for administrative review. After receiving a letter defining the petitioner's protest rights, [Redacted] telephoned the Tax Appeals Specialist. During the ensuing conversation, she continued her argument stating the petitioners should not have been led to believe they qualified for the benefits only to be denied later, and her VA compensation should not be considered income.

Idaho Code § 63-701 uses a series of definitions to state the qualifications petitioners must meet in order to be considered for property tax reduction benefits. The benefit amount is determined by the total income received by the petitioners during the prior year.

Idaho Code § 63-701 provides in pertinent part:

63-701. Definitions. As used in this chapter:

(1) "Claimant" means a person who has filed a claim under the provisions of sections 63-701 through 63-710, Idaho Code. Except as provided in section 63-702(2), Idaho Code, on January 1 of the year in which the claim was filed a claimant must be an owner of a homestead and be:

(a) Not less than sixty-five (65) years old; or

(b) A fatherless or motherless child under the age of eighteen (18) years of age; or

(c) A widow or widower; or

(d) A disabled person who is recognized as disabled by the social security administration pursuant to title 42 of the United States Code, or by the railroad retirement board pursuant to title 45 of the United States Code, or by the office of management and budget pursuant to title 5 of the United States Code; or

(e) A disabled veteran of any war engaged in by the United States, whose disability is recognized as a service-connected disability of a degree of ten percent (10%) or more, or who has a pension for nonservice-connected disabilities, in accordance with laws and regulations administered by the United States veterans administration; or

(f) A person as specified in 42 USC 1701, who was or is entitled to

receive benefits because he is known to have been taken by a hostile force as a prisoner, hostage or otherwise; or

(g) Blind. (Emphasis added.)

(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. "Income" does not include veterans disability pensions received by a person described in subsection (1)(e) who is a claimant or a claimant's spouse if the disability pension is received pursuant to a service-connected disability of a degree of forty percent (40%) or more. "Income" does not include lump sum death benefits made by the social security administration pursuant to 42 U.S.C. section 402(i). Documentation of medical expenses may be required by the county assessor, board of equalization and state tax commission in such form as the county assessor, board of equalization or state tax commission shall determine. "Income" shall be that received in the calendar year immediately preceding the year in which a claim is filed. Where a claimant and/or the claimant's spouse does not file a federal tax return, the claimant's and/or the claimant's spouse's federal adjusted gross income, for purposes of this section, shall be an income

equivalent to federal adjusted gross income had the claimant and/or the claimant's spouse filed a federal tax return, as determined by the county assessor. The county assessor, board of equalization or state tax commission may require documentation of income in such form as each shall determine, including, but not limited to: copies of federal or state tax returns and any attachments thereto; and income reporting forms such as the W-2 and 1099.
(Emphasis added.)

There is no question as to whether or not the petitioners qualify to receive property tax reduction benefits. Each of the petitioners qualifies as a disabled veteran with more than 10% disability. Clearly, the petitioners are eligible as claimants for the property tax reduction benefits. However, the benefit amount is another matter.

Because the petitioners' application showed the petitioners qualified as disabled veterans, the staff contacted the Veterans' Administration to verify the petitioners' status as disabled veterans, the degree of each disability, and the amount of pension paid to each of them.

The Veterans' Administration records showed Mr. [Redacted] received disability compensation based on an 80% disability, and Mrs. [Redacted] received disability compensation based on a 30% disability.

The petitioners had not included either compensation in their application for the property tax reduction benefits. Therefore, the staff sent them a letter advising them of the intention to include Mrs. [Redacted]'s disability compensation in the total amount of income for property tax reduction benefits. The change resulted in a reduction in the benefit amount. The petitioners' total income for property tax reduction purposes exceeded the maximum allowed for receiving benefits.

The Tax Commission finds Idaho Code § 63-701(5), cited above, is controlling. The petitioners' total 2002 income for property tax reduction benefits purposes was \$21,397, an amount that exceeds the maximum allowed for a claimant to receive the minimum benefit. The petitioners are denied the property tax reduction benefits for 2003.

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 decision of the State Tax Commission staff is hereby APPROVED, AFFIRMED and MADE FINAL.

An explanation of the petitioners' right to appeal this decision, if it is adverse to the petitioner, is enclosed with this decision.

DATED this ____ day of _____, 2003.

IDAHO STATE TAX COMMISSION

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] _____