

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 18011
[REDACTED],)	
)	DECISION
Petitioners.)	
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)	

This case arises from a timely protest of a State Tax Commission staff (staff) decision adjusting property tax reduction benefits for 2002 and 2003. On April 30, 2004, an informal conference with the petitioners was held at the Tax Commission’s Boise office. Based on that conference and the petitioners’ income records, the State Tax Commission makes its decision.

[Redacted] (petitioners) filed property tax reduction benefit applications on or about January 28, 2002, for 2002 and January 28, 2003, for 2003. Both applications were approved, and the petitioners received property tax reduction benefits for 2002 and 2003 based on their reported income.

Idaho Code §§ 63-707 and 708 provide for audit of all claims and recovery of benefits that have been paid in error. The staff reviewed the petitioners’ applications and compared the income reported therein with federal income records. The petitioners’ taxable income was missing from the applications.

The staff sent the petitioners a Notice of Deficiency Determination advising them of the mistake in the reported income and the determination they should not have received a benefit either year. They were asked to repay the property tax reduction benefits they received for both 2002 and 2003. After telephoning the staff to voice their objection, the petitioners sent a written protest of the determination.

All property within the jurisdiction of this state is subject to property tax. A claimant who qualifies for property tax reduction is given a benefit for a portion of the property tax 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 tax. The payment is funded by 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 described in the income tax code. Idaho Code § 63-701(5) describes income as:

(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.)

The calculation of income for property tax reduction benefit purposes starts with federal adjusted gross income and, thereafter, makes certain additions and deductions. In the petitioners' applications, they did not include their taxable income. [Redacted] wrote that he did not believe the law required them to include their taxable income in the applications because their income was below the requirement to file federal and state income tax returns.

At the conference, the petitioners presented their argument further. They reasoned that, if they were not required to report their interest income to the taxing authorities, they would not need to identify that income as federal adjusted gross income for the purpose of the property tax reduction benefits. At the conference, the petitioners were given the opportunity to read the complete definition of income stated as Idaho Code § 63-701. After reading the law, they apologized for their mistake and acknowledged the deficiency. However, they questioned the income total for 2003. They submitted copies of their 2003 1099s for consideration.

After careful review of the records and the information submitted by the petitioners, the Tax Commission finds the benefit amount the petitioners received for payment of their property taxes for 2002 and 2003 was incorrect and repayment of those benefits is appropriate. However, because the determination overstated the additional income the petitioners received in 2003 the repayment amount and interest is adjusted to reflect a calculation of benefit using less additional income.

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 Notices of Deficiency Determination dated April 5, 2004, are hereby MODIFIED and, as so modified, are APPROVED, AFFIRMED, and MADE FINAL.

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

<u>YEAR</u>	<u>BENEFIT</u>	<u>INTEREST</u>	<u>TOTAL</u>
2002	\$900	\$41.30	\$ 941.30
2003	540	5.88	<u>545.88</u>
		TOTAL	<u>\$1,487.18</u>

Interest is computed through June 15, 2004.

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

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

Dated this _____ day of June, 2004.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2004, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

Receipt No.