

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 18094
[REDACTED]	)	
Petitioner.	)	DECISION
	)	
	)	

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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. 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) submitted property tax reduction benefit applications for 2002 and 2003. Both applications were approved, and the petitioner received property tax reduction benefits based on the 2001 and 2002 income he reported in the applications.

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 petitioner's applications and compared the income claimed therein with federal income records. It appeared the petitioner had missed listing some of his income in each of the applications.

The staff sent the petitioner Notices of Deficiency Determination advising him that, because of the mistake in the reported income, he received larger benefits than he was qualified to receive. He was asked to repay the over-paid portion of the 2002 and 2003 benefits.

The petitioner's daughter telephoned the staff to voice her father's objections. She followed up the phone call with a written protest to the determination. The petitioner's file was transferred to the Legal/Tax Policy Division for administrative review.

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 state sales taxes.

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.

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 petitioner's applications, he did not list a portion of his pension or any of the interest he received during 2000 and 2001.

The petitioner questioned why he did not qualify for benefits stating that he was more than

65 years of age and had less income than the maximum allowed. The staff telephoned the taxpayer and explained that he did qualify for benefits both years but not as much as he received. The staff explained the “income bracket” system used to determine each year’s benefit amount. For a certain range of income, an applicant qualifies to receive a certain benefit amount. The maximum income allowed and the benefit amounts are established each year by the state legislature.

Following the telephone conversation with the petitioner and his daughter, the staff sent the petitioner a copy of his federal 1099 forms and the 2001 and 2002 bracket charts showing the benefit amount for each income range.

After review of the petitioner’s federal income records and Idaho Code § 63-701(5), the Tax Commission finds the benefit amount the petitioner received for payment of his property taxes for 2002 and 2003 was incorrect. Repayment of the over-paid portion of the benefits 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 Notices of Deficiency Determination dated April 5, 2004, are 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>YEAR</u>	<u>BENEFIT</u>	<u>INTEREST</u>	<u>TOTAL</u>
2002	\$180	\$7	\$187
2003	120	3	<u>123</u>
		TOTAL	<u>\$310</u>

Interest is computed through September 9, 2004.

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

An explanation of the taxpayer's right to appeal this decision is included with this decision.

DATED this \_\_\_\_ day of \_\_\_\_\_, 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]  
[REDACTED]  
[REDACTED]

Receipt

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