

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
) DOCKET NO. 18362
[Redacted],)
) DECISION
)
Petitioner.)
_____)

This case arises from a timely protest of a State Tax Commission staff (staff) decision adjusting the property tax reduction benefit for 2004. 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 file.

All property within the jurisdiction of this state is subject to property tax. A property tax reduction benefit program is available to certain qualifying individuals throughout the state. The benefit is in the form of a payment (either total or partial) of the applicant's property tax on the dwelling he/she owns and occupies. The payment is funded by state sales tax.

[Redacted] (petitioner) filed a property tax reduction application on or about February 24, 2004. Pursuant to Idaho Code § 63-707 providing for audit of all claims, the staff reviewed the petitioner's application and compared the information with federal, state, and county records.

The application showed the petitioner's status as a widow qualified her to receive the benefit. However, the records showed the deceased was married to someone other than the petitioner at the time of his death. The staff sent the petitioner a notice to advise her of the intent to deny her 2004 benefit because she did not appear to qualify as a claimant.

The petitioner sent a written protest to the determination and a copy of her Social Security Administration Retirement, Survivors, and Disability Insurance Notice of Award. The petitioner's file was transferred to the Legal/Tax Policy Division for administrative review.

In response to a letter advising her of her appeal rights, the petitioner telephoned the Tax Appeals Specialist. In that conversation, the petitioner argued that she was indeed a widow because she is receiving "widow's benefits." She said she could not understand why the federal government recognizes her as a widow and the state does not.

Idaho Code § 63-701 uses definitions to describe the conditions that must exist for an applicant to qualify to receive the property tax reduction benefit. The Code states 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 or before April 15 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 child under the age of eighteen (18) years who is fatherless or motherless or who has been abandoned by any surviving parent or parents; 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 U.S.C. 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.

Idaho Code sets out certain eligibility requirements for persons seeking the property tax reduction benefit. One status qualifying a person to receive the benefit is if he or she is a widow or widower. The petitioner contends she is a widow because the widow benefit she receives from the Social Security Administration demonstrates the federal government considers her a widow. She does not dispute the fact that her former husband was married to someone else at the time of his death.

Webster's Ninth New Collegiate Dictionary defines "widow" as "a woman who has lost her husband by death and has not remarried." Husband is defined as "a married man."

The petitioner's former husband was a husband at the time of his death but not the petitioner's husband. Therefore, the petitioner did not lose her husband by death; she lost her former husband by his death. The petitioner is not her former husband's widow even though she qualifies to receive widow benefits from the Social Security Administration for the years she was married to him.

Idaho State Tax Commission Property Tax Administrative Rule 700(07) defines widow/widower as a person who has not remarried after the death of their spouse or whose subsequent marriage has been annulled. The petitioner's spouse is not deceased; her former spouse is deceased. The petitioner does not meet the Tax Commission's definition of widow as it applies to the property tax reduction benefit.

The 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 situation falls with the board of [Redacted] County Commissioners under Idaho Code § 63-711.

WHEREFORE, the Intent to Deny Property Tax Reduction Benefit letter dated October 4, 2004, issued by the State Tax Commission staff is hereby APPROVED, AFFIRMED and MADE FINAL.

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

DATED this ____ day of _____, 2004.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this ____ day of _____, 2004, 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]
[Redacted]

Receipt No.
