

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

In the Matter of the Protest of )  
[Redacted], ) DOCKET NO. 18771  
 )  
Petitioner. ) DECISION  
 )  
\_\_\_\_\_ )

This case arises from a timely protest of a State Tax Commission staff (staff) decision adjusting property tax reduction benefits for 2004. The State Tax Commission has reviewed the file and makes its decision based on the documents in the file.

[Redacted] (petitioner) filed a 2004 property tax reduction benefit application on or about April 14, 2004. The application was approved, and the petitioner received a benefit for payment of the property tax on her home.

Idaho Code §§ 63-707 and 708 provide for audit of all claims and recovery of benefits that have been paid in error. During review of the petitioner’s application and [Redacted] County records, the staff discovered the ownership of the petitioner’s home was shared with another person. They were named equally in the title to the property.

Because the petitioner had received a benefit for a 100% ownership instead of a 50% ownership, the staff sent the petitioner a Notice of Deficiency Determination asking her to repay the over-paid portion of the 2004 benefit. The petitioner appealed, and her file was transferred to the Legal/Tax Policy Division for administrative review.

In the taxpayer’s petition for redetermination, the petitioner said she was unaware that adding her long-time neighbor to the deed to the property would cause a problem. She said she added the name when her husband died (date of death – January 29, 2002), because she had no one to leave her estate to after his death.

The petitioner stated that she did not think the determination was fair because she is responsible for all of her own bills, and the person on the deed pays all of his own bills with his social security checks.

Idaho Code § 63-701 describes the conditions that must exist for an applicant to qualify to receive circuit breaker benefits. Section 63-701 in pertinent parts states:

- (7) **"Owner" means a person holding title in fee simple** or holding a certificate of motor vehicle title (either of which may be subject to mortgage, deed of trust or other lien) or who has retained or been granted a life estate or who is a person entitled to file a claim under section 63-702, Idaho Code.

...

Idaho Code § 63-701(7)(c) . . . **Any partial ownership shall be considered as ownership** for determining initial qualification for property tax reduction benefits; **however, the amount of property tax reduction** under section 63-704, Idaho Code, and rules promulgated pursuant to section 63-705, Idaho Code, **shall be computed on the value of the claimant's partial ownership.** "Partial ownership," for the purposes of this section, means any one (1) person's ownership when property is owned by more than one (1) person or where the homestead is held by an entity, as set forth in this subsection, but more than one (1) person has the right of occupancy of such homestead. (Emphasis added.)

When the petitioner's benefit was paid, it was credited against the home's property tax as if the petitioner had a 100% ownership interest in the property. The petitioner qualified to receive a benefit for her portion of ownership only.

One might feel (for any number of reasons) that the statutory treatment is unfair or otherwise unreasonable. The Idaho Supreme Court has addressed such circumstances. The Court stated, in part:

Taxpayer urges that ambiguous language of the statute should be so construed as to avoid socially undesirable or oppressive results. It may be agreed, where legislative language is ambiguous, and other rules of statutory construction do not control, the court should consider social and economic results. But in this instance we do not find the statutes involved to be ambiguous; no exemption is granted and the legislative

intent is to impose a tax on residents of this state measured by taxable income wherever derived. In such case our duty is clear. We must follow the law as written. If it is socially or economically unsound, the power to correct it is legislative, not judicial. John Hancock Mutual Life Insurance Co. v. Neill, 79 Idaho 385, 319 P.2d 195 (1957). (Emphasis added.)

The Tax Commission finds the definition of “owner” in Idaho Code § 63-701 to be clear. 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 Notice of Deficiency Determination dated April 11, 2005, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioner pays the property tax benefit reimbursement of \$324.12 for property tax year 2004.

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 \_\_\_\_\_, 2005.

IDAHO STATE TAX COMMISSION

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COMMISSIONER

**CERTIFICATE OF SERVICE BY MAIL**

I hereby certify that I have on this \_\_\_\_\_ day of \_\_\_\_\_, 2005, 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]

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