

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
[REDACTED],) DOCKET NO. 18799
)
Petitioners.) DECISION
)
_____)

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

[Redacted] (petitioners) submitted a 2004 property tax reduction benefit application on April 7, 2004. The application was approved, and the petitioners received a benefit for payment of their property tax.

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 petitioners' application and federal and state income records, the staff identified income that had not been shown in the application.

The staff sent the petitioners a Notice of Deficiency Determination dated April 11, 2005, advising them of the mistake in their reported income and the Tax Commission's determination that they should not have received a benefit for 2004. They were asked to repay the property tax reduction benefits they received in error.

The petitioners appealed the determination by submitting documents to establish their income. Their file was transferred to the Legal/Tax Policy Division for administrative review.

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, if married, the claimant's spouse, may be deducted from income.

For the purpose of the property tax reduction benefit, Idaho Code defines income as the sum of federal adjusted gross income and certain other monies. In the petitioners' application, their 2003 federal adjusted gross income is listed as \$4,659; however, their federal tax return reflects a federal adjusted gross income figure of \$6,403. Bank interest of \$450 was part of the \$6,403. However, the total bank interest shown in federal 1099 forms issued to the petitioners in 2003 was \$788.

Another federal 1099 form showed a dividend of \$37 received by the petitioners. The dividend was not included in the federal return and was not listed in the application. The social

security benefits listed in the application matched federal records.

When the petitioners' application is corrected to include all income as required by definition in Idaho Code and their medical expenses are subtracted, the petitioners' total net income for the purpose of the property tax reduction benefit for 2004 was \$19,937 – not \$17,818 the amount shown in the application. They qualified for a benefit of \$270. They received a benefit in the amount of \$341.70. Repayment of the over-paid portion of the benefit 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 hereby MODIFIED and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioners pay a property tax reduction benefit reimbursement plus interest in the total amount of \$72.67 for property tax year 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 _____, 2005.

IDAHO STATE TAX COMMISSION

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]
