

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 18886
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

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] (petitioner) submitted a 2004 property tax reduction benefit application on or about April 8, 2004. The application was approved, and the petitioner received a benefit for payment of her 2004 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 petitioner’s application and federal and state records, the staff identified income that had not been shown in the application.

The staff sent the petitioner a Notice of Deficiency Determination dated April 11, 2005, advising her of the mistake in the reported income and the determination that she should not have received a benefit for 2004. She was asked to repay the property tax reduction benefit she received in error. She appealed the determination, and her 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. The petitioner's application for the benefit shows the petitioner's status as the widow of a disabled veteran with a service-connected disability of 10-30 percent qualified her to receive the benefit. She listed \$14,081 of federal adjusted gross income only.

Because the petitioner did not list compensation received as the widow of a disabled veteran in her application, the staff contacted the Department of Veterans Affairs for clarification. Its

records showed the petitioner received a benefit of \$948 a month during tax year 2003 as the widow of a disabled veteran with a service connected disability of a degree of less than 40 percent.

In her letter of protest, the petitioner talks about tax year 2001. She does not deny she receives compensation from the Veterans Affairs but does question the amount. She asked for proof she received the money.

The staff sent the petitioner copies of the information received from the Department of Veterans Affairs. The petitioner did not respond, and further efforts to contact her have been unsuccessful. She did not acknowledge receipt of a letter from the Tax Commission's Legal/Tax Policy Division advising her of her appeal rights.

When the petitioner's application is corrected to include all income as required by definition in Idaho Code, the petitioner's 2003 total net income for the purpose of the property tax reduction benefit for 2004 was \$23,248. The petitioner's income exceeded the amount allowed for a petitioner to qualify for a benefit (\$21,580). Repayment of the \$415.96 benefit plus interest 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 APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioner pay a 2004 property tax reduction benefit reimbursement of \$421.57 (\$415.96 plus interest of \$5.61).

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

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]
