

follows:

(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/or, if applicable, the claimant's spouse, may be deducted from income. To the extent not reimbursed, personal funeral expenses, including prepaid funeral expenses and premiums on funeral insurance, of the claimant and claimant's spouse only, may be deducted from income up to an annual maximum of five thousand dollars (\$5,000) per claim. (Emphasis added.)

For the purpose of the property tax reduction benefit, the calculation of income starts with federal adjusted gross income and, thereafter, makes certain additions and deductions.

Examination of the petitioner's federal tax return shows the petitioner's federal adjusted gross income included railroad retirement of \$8,004. In the application, the petitioner listed \$8,815 of federal adjusted gross income and the \$603 of railroad retirement that had not been included in his adjusted gross. He did not show the \$16,728 he received as a Social Security equivalent benefit from

the Railroad Retirement Board. When that \$16,728 is added to the petitioner's federal adjusted gross income and non-taxable pension and the medical expenses are deducted, the petitioner's total net income for property tax reduction benefit purposes is \$23,217. The petitioner's income for 2004 exceeds the \$22,040 maximum allowed for an applicant to qualify for a minimum property tax reduction benefit for 2005.

The State Tax Commission is aware there is some potential this decision could cause a hardship to the applicant for property tax reduction in certain circumstances. The proper jurisdiction to handle such hardship situations falls with the county commissioners pursuant to Idaho Code § 63-711.

WHEREFORE, the Intent to Deny Benefits letter dated August 10, 2005, is hereby APPROVED, AFFIRMED, and MADE FINAL.

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

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]

[REDACTED]

