

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 19048
[REDACTED],)	
)	DECISION
Petitioners.)	
)	

This case arises from a timely protest of a State Tax Commission staff decision to change the property tax reduction benefit for 2005. 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.

[Redacted] (petitioners) filed an application for a property tax reduction benefit on April 7, 2005. During review of that application and the supporting documents, the information was compared with federal and state records. The staff identified a portion of non-taxable annuities that had not been included in the income listed in the application.

The staff sent the petitioners a letter advising them their income total for the purpose of the property tax reduction benefit was going to be increased to include the missing annuity funds. The petitioners protested the intended action that would decrease the amount of their benefit. The 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 property tax reduction benefit program is available to certain qualifying individuals throughout the state. The benefit is in the form of payment of the applicant's property tax on the dwelling he/she owns and occupies. 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. However, income is defined differently for the property tax reduction benefit program than it is described in the income tax code. Income for property tax reduction benefit purposes is

defined in Idaho Code § 63-701(5):

(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 married, 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.)

The calculation of income starts with federal adjusted gross income and, thereafter, makes certain additions and deductions. The nontaxable portion of annuities is specifically required to be included in income to determine the benefit amount a qualified applicant is to receive. One exception is annuities determined to be qualified as “rollovers as provided in section 402 or 403 of the Internal Revenue Code.”

[Redacted] sent the staff a letter stating his position that the net, not the gross, amount of their annuity should be included in income. He sent a copy of a Notice of Annuity Adjustment dated January 2, 2004. The notice advised the petitioners their monthly annuity payments had been

increased to reflect a cost-of-living adjustment. The notice showed a deduction of \$56.73 from the gross monthly annuity resulting in a net monthly payment. It did not show what the deduction was for.

Mr. [Redacted] points to gross vs. net to determine the correct amount to be claimed as income for property tax reduction benefit purposes. On October 14, 2005, during a telephone conversation, Mr. [Redacted] explained the deduction is a monthly life insurance payment.

Idaho Code § 63-701(5)(g) provides for a deduction of medical expenses as allowed by the Internal Revenue Code. The Internal Revenue Code does not include life insurance as a deductible medical expense. There is no provision in Idaho Code § 63-701 for the deduction of costs for life insurance.

The gross amount of the petitioners' annuity would be the net monthly payment had the petitioners not taken out the life insurance policy and arranged to have the monthly premiums deducted from their annuity payments. The portion of the annuity payment that is set aside to pay life insurance premiums must be included as part of income for the purpose of this benefit.

When the \$681 of life insurance premiums are added to the income reported in the petitioners' application, the petitioners' 2005 net income for determining the amount of their property tax reduction benefit is \$17,553. The petitioners qualify for a property tax reduction benefit of an amount not to exceed \$480 rather than the \$540 shown in the application as submitted.

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

WHEREFORE, the decision of the State Tax Commission staff to change the property tax

reduction benefit is APPROVED, AFFIRMED and MADE FINAL.

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]

Receipt No.
