

(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.** 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. "Income" does not include veterans disability pensions received by a person described in subsection (1)(e) who is a claimant or a claimant's spouse if the disability pension is received pursuant to a service-connected disability of a degree of forty percent (40%) or more. "Income" does not include dependency and indemnity compensation or death benefits paid to a person described in subsection (1) of this section by the United States department of veterans affairs and arising from a service-connected death or disability. "Income" does not include lump sum death benefits made by the social security administration pursuant to 42 U.S.C. section 402(i). Documentation of medical expenses may be required by the county assessor, board of equalization and state tax commission in such form as the county assessor, board of equalization or state tax commission shall determine. . . . (Emphasis added.)

The petitioners' completed Medical Expense Statement shows a medical expense of \$1,731.44 for prescription drugs purchased in Mexico. Internal Revenue Code § 213(d) is supported by the Internal Revenue Service's Publication 502 Medical and Dental Expenses. The publication lists medical expenses that are allowed to be included as deductions from federal income. Listed under What Expenses Are Not Includible? is a section entitled Medicines and Drugs From Other Countries. Under that heading is stated:

In general, you cannot include in your medical expenses the cost of a prescribed drug brought in (or ordered shipped) from another country, because you can only include the cost of a drug that was imported legally. (You can include the cost of a prescribed drug the Food and Drug Administration announces can be legally imported by individuals.) However, you can include the cost of a prescribed drug you purchase and consume in another country if the drug is legal in both the other country and the United States.

The petitioners listed drugs they purchased in Mexico and brought back to consume in the United States as deductible medical expenses. Pursuant to Property Tax Administrative Rule 600, the burden of proving the drugs qualify as deductible medical expenses is on the person claiming exemption. The petitioners have not met that burden.

Pursuant to Idaho Code § 701(5), income begins with the petitioners' federal adjusted gross income (\$17,896). Social Security (\$5,503 and \$2,805) is added to that amount and allowable medical expenses (\$4,725) are deducted. The result is a total net income for property tax reduction purposes of \$21,479. The petitioners qualify to receive a benefit of an amount not to exceed \$180 for 2005.

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 Intent to Deny Benefit letter dated September 19, 2005, is hereby 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.
