

Income for property tax reduction benefit purposes is defined in Idaho Code § 63-701(5) as 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 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.

For property tax reduction benefit purposes, the calculation of income starts with federal adjusted gross income and, thereafter, makes certain additions and deductions. The taxpayer did not file an income tax return for 2004. However, records from the Social Security Administration (SSA) show the petitioner received \$35,973 in 2004. A portion of that amount was retroactive for other years but was paid to the petitioner in 2004.

The petitioner provided a copy of a letter from Principal Life Insurance Company, the carrier

for the State of Idaho's group Long Term Disability. This letter dated March 11, 2004, said the company was going to withhold the petitioner's \$682.08 monthly disability payments until the overpayment resulting from the SSA's retroactive decision finding the petitioner disabled effective December 2001 is reimbursed to the company.

The petitioner also provided a copy of two letters to her from the SSA, a copy of a letter to her from an attorney regarding settlement of a lawsuit between the petitioner and [Redacted], and a cover letter explaining the pertinence of the information in the letters. In addition to the copies of letters, the petitioner and her medical providers submitted verification of medical expenses that were not paid by insurance or Medicare in the total amount of \$2,395.93.

The petitioner explained that she was a State of Idaho employee when she was injured on the job in 2001. She began receiving disability checks from the State's insurance carrier and applied to the SSA for recognition as disabled. It took until 2004 for the SSA to issue a final decision. The decision found the petitioner was disabled retroactive to December of 2001. She received payment from the SSA for the years from 2001 through 2004 in 2004.

Because the SSA's decision was retroactive back to 2001, it had an effect on the amount of disability payment she was entitled to receive from the State's insurance carrier. The petitioner was required to repay the portion of the benefit from the insurance carrier that was an overpayment. An agreement was worked out so she did not have to pay the money back in one payment. Rather, she agreed to not receive any further disability payments from the insurance carrier until the total overpayment was repaid by withholding the payments she was currently entitled to receive.

Pursuant to her request, the Tax Commission attempted to schedule an informal conference with the petitioner. She did not appear for two scheduled conferences. Rather, she telephoned after the scheduled time to explain she had been ill. In spite of numerous attempts to reach the petitioner by telephone and mail, efforts to contact her further have been unsuccessful.

The petitioner explained in several telephone conversations that the lawsuit was against her mortgage company. She said it was settled in 2004, and the money was used to pay medical bills. She did not provide a copy of the lawsuit or any document that would explain whether the settlement was for compensatory or punitive damages. Without additional information, the Tax Commission is unclear whether the lawsuit settlement (either \$45,000 or \$22,900) should be included in the petitioner's income for the purpose of this benefit.

In addition, federal income records show the petitioner received \$3,280 from [Redacted] Life Insurance Co. and \$103 of interest from [Redacted] Credit Union in 2004. None of this income was reported in the application.

The Tax Commission finds it unnecessary to make a determination of whether any of the above income should be included in the petitioner's income for the purpose of this benefit or if unsubstantiated out-of-pocket medical expenses should be deducted. The petitioner claimed \$8,736 for out-of-pocket medical expenses in her original application. She provided proof for \$2,396 of those expenses. If the petitioner is allowed to deduct the entire \$8,736 from the \$35,973 of Social Security Disability Income she received in 2004, the petitioner's net income for the purpose of the 2005 property tax reduction benefit would be \$27,237 – well over the \$22,040 maximum income allowed for a minimum 2005 benefit.

The petitioner's 2004 net income for the purpose of the property tax reduction benefit exceeds the maximum income allowed for an applicant to qualify to receive the minimum benefit

without including any income beyond the social security disability benefit or denying deduction of any medical expenses claimed in the application. The petitioner must be denied a 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 Property Tax Reduction Benefit letter dated September 21,2005, is hereby APPROVED, AFFIRMED, and MADE FINAL.

An explanation of the taxpayer's right to appeal this decision is included with this decision.

DATED this ____ day of _____, 2006.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2006, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

[Redacted]