

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 19378
[Redacted],)	
)	DECISION
Petitioner.)	
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)	

This case arises from a timely protest of a State Tax Commission staff (staff) decision adjusting property tax reduction benefits for 2003 and 2004. This matter was submitted for decision based on the documents in the file. The State Tax Commission has reviewed the file and makes its decision thereon.

[Redacted] (petitioner) filed applications for property tax reduction benefits for the years 2003 and 2004. As the widow of [Redacted], she was approved for benefits both years.

Idaho Code § 63-708 provides:

63-708. Recovery of erroneous claims. Within three (3) years of payment, the state tax commission may recover any erroneous or incorrect payment made under sections 63-701 through 63-710, Idaho Code, from any "claimant" as defined in section 63-701(1), Idaho Code. The deficiency determination, collection, and enforcement procedures provided by the Idaho income tax act, sections 63-3039, 63-3042, 63-3043 through 63-3064, Idaho Code, shall apply and be available to the commission for enforcement and collection under sections 63-701 through 63-710, Idaho Code, and such sections shall, for this purpose, be considered part of sections 63-701 through 63-710, Idaho Code. Wherever liens or any other proceedings are defined as income tax liens or proceedings, they shall, when applied in enforcement or collection under sections 63-701 through 63-710, Idaho Code, be described as tax relief liens and proceedings. In connection with such sections, a deficiency shall consist of any amount erroneously claimed by or paid to a claimant under sections 63-701 through 63-710, Idaho Code.

During a routine audit of the petitioner's application, it was determined the petitioner
DECISION - 1
[Redacted]

remarried after [Redacted]'s death. Although that marriage ended in divorce, it changed the petitioner's status as a widow. A Notice of Deficiency Determination was issued asking the petitioner to reimburse the state of Idaho \$777.66 for the benefit plus accrued interest paid on the petitioner's behalf for 2003 and \$798.63 for the benefit plus the accrued interest paid on the petitioner's behalf for 2004.

The petitioner filed a protest to that determination, and her file was transferred to the Legal/Tax Policy Division for administrative review.

Idaho Code § 63-701 uses definitions to describe the conditions that must exist for an applicant to qualify to receive the property tax reduction benefit:

63-701. DEFINITIONS. As used in this chapter:

(1) "Claimant" means a person who has filed a claim under the provisions of sections 63-701 through 63-710, Idaho Code. Except as provided in section 63-702(2), Idaho Code, on January 1, or before April 15, of the year in which the claimant first filed a claim on the homestead in question, a claimant must be an owner of the homestead and on January 1 of said year a claimant must be:

- (a) Not less than sixty-five (65) years old; or
- (b) A child under the age of eighteen (18) years who is fatherless or motherless or who has been abandoned by any surviving parent or parents; or
- (c) A widow or widower; or
- (d) A disabled person who is recognized as disabled by the social security administration pursuant to title 42 of the United States Code, or by the railroad retirement board pursuant to title 45 of the United States Code, or by the office of management and budget pursuant to title 5 of the United States Code; or
- (e) A disabled veteran of any war engaged in by the United States, whose disability is recognized as a service-connected disability of a degree of ten percent (10%) or more, or who has a pension for nonservice-connected disabilities, in accordance with laws and regulations administered by the United States department of veterans affairs; or
- (f) A person, as specified in 42 U.S.C. 1701, who was or is entitled to receive benefits because he is known to have been taken by a hostile force as a prisoner, hostage or otherwise; or

(g) Blind.

The code sets out certain eligibility requirements for persons seeking the property tax reduction benefit. In her application for the benefit, the petitioner claimed she qualified for the benefit as a widow.

Idaho State Tax Commission Property Tax Administrative Rule 700(07) defines widow/widower as: “A widow/widower is a person who has not remarried after the death of their spouse or whose subsequent marriage has been annulled.”

According to the requirements of Idaho Code § 63-701 and Administrative Rule 700 describing the property tax reduction benefit program, the petitioner gave up her status as a widow when she remarried following the death of her husband. Only an annulment could have dissolved the marriage without having an effect on the petitioner’s status as a widow.

During the two years at issue, the petitioner was less than 65 years old, was not a child under the age of 18, was not a widow, was not disabled, and was not blind. The petitioner did not qualify as a claimant for the property tax reduction benefit.

Idaho statute allows for the recovery of benefits paid in error. The Tax Commission finds the deficiency determination is appropriate.

WHEREFORE, the Notices of Deficiency Determination dated April 10, 2006, are hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioner pays the following property

tax benefit reimbursement and interest.

<u>YEAR</u>	<u>BENEFIT</u>	<u>INTEREST</u>	<u>TOTAL</u>
2003	\$692.24	\$85.42	\$ 777.66
2004	744.02	54.61	<u>798.63</u>
		TOTAL	\$1,576.29
		LESS PAYMENT	<u>-1,576.29</u>
		TOTAL DUE	\$ -0-

The petitioner has paid the total due in full. Therefore, no demand for payment is made.

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

DATED this ____ day of _____, 2006.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this ____ day of _____, 2006, 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]

Receipt No.