

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 19708
[REDACTED],)	
)	DECISION
Petitioners.)	
)	
)	
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This case arises from a timely protest of a State Tax Commission staff decision to deny the property tax reduction benefit for 2006. 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 February 17, 2006. That application and the supporting documents were reviewed and compared with federal and state records. The staff identified income that was disbursed from an individual retirement account 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 funds. The petitioners protested the intended action that would reduce their benefit amount. 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 all or a portion 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 any return of principal paid by the recipient of an annuity and 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 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. **"Income" shall be that received in the calendar year immediately preceding the year in which a claim is filed.** Where a claimant and/or the claimant's spouse does not file a federal tax return, the claimant's and/or the claimant's spouse's federal adjusted gross income, for purposes of this section, shall be an income equivalent to federal adjusted gross income had the claimant and/or the claimant's spouse filed a federal tax return, as determined by the county assessor. The county assessor, board of equalization or state tax commission may require documentation of income in such form as each shall determine, including, but not limited to: copies of federal or state tax returns and any attachments thereto; and income reporting forms such as the W2 and 1099. (Emphasis added.)

The calculation of income starts with federal adjusted gross income and, thereafter, makes certain additions and deductions. Individual retirement accounts, pensions, or annuities are specifically required to be included in income to determine the benefit amount a qualified applicant is to receive. The exceptions are funds that are “return of principal paid by the recipient of an annuity” or “rollovers as provided in section 402 or 403 of the Internal Revenue Code.”

In the letter protesting the intent to change the amount of benefit, [Redacted] detailed his activities with his term IRA for years 2002 through 2006. He sent copies of five different IRA Term Share Certificate Maturity Notices and a copy of a Term Share Certificate showing a maturity date of March 11, 2005. He said he included the interest from the IRA in each year that it was earned. Therefore, he did not feel he should have to include any of the interest the IRA earned even if the State Tax Commission found he had to include the \$2,000 original investment.

State Tax Commission records for 2005 show America's Christian Credit Union issued a 1099-R [Redacted] reflecting a taxable distribution of \$2,633.49. The petitioners did not list the distribution as federal adjusted gross income nor as pensions, annuities, or IRAs. They did include \$11.40 of interest the IRA earned in the first two months of 2005.

The petitioners' application showed social security of \$9,444 and \$5,340, pension/retirement income of \$1,639.92 and \$11.40, and interest of \$74.26 reduced by medical expenses of \$1,945.62. The petitioners question the inclusion of the IRA and the interest earned over several years in their 2005 income for the purpose of the property tax reduction benefit.

However, a claimant is required to apply for the benefit each year independent of other years. The benefit amount is based on the amount of income a claimant received during the prior year.

Idaho Property Tax Administrative Rule 700.03 provides guidelines for determining any return of principal paid by the recipient of an annuity:

03. Claimant's Income. All income defined in Section 63-701(5), Idaho Code, that is received by either spouse is included in household income even if one spouse lives in a medical care facility or otherwise lives outside the home except as provided in Rule 709 of these rules. For the purposes of excluding from claimant's income any return of principal paid by the recipient of an annuity, follow these guidelines. (1-1-06)

a. An annuity means a contract sold by an insurance company to the claimant or claimant's spouse and designed to provide payments to the holder at specified equally spaced intervals or as a lump sum payment with the following conditions: (1-1-06)

i. The annuity must not be part of any pension plan available to an employee; (1-1-06)

ii. No tax preference is given to the money spent to purchase the annuity (purchase payments must not reduce the buyer's taxable income); (1-1-06)

iii. The buyer of the annuity must have purchased the annuity voluntary and not as a condition of employment or participation in an employer provided pension system; and (1-1-06)

iv. Earnings from investments in the annuity must be tax-

deferred prior to withdrawal. (1-1-06)

b. Annuities do not include KEOGH plans, Individual Retirement Accounts (IRAs), employer provided pensions, and similar financial instruments. Life insurance premiums shall not be treated as the principal of an annuity. (1-1-06)

c. The recipient of the annuity payment(s), the claimant or claimant's spouse, has the burden of proving the income is the principal paid by the recipient. Such proof includes copies of the holder's annuity contract and any other documentation clearly indicating the conditions listed in Subparagraphs 700.03.a.i. through 700.03.a.iv. of this Rule are met. IRS form 1099 does not provide sufficient proof. (Emphasis added.) (1-1-06)

The petitioners' IRA that included interest earned over several years was disbursed in 2005. The principal of the petitioners' IRA was not an annuity, and the interest earned was taxable income. In fact, the 1099-R issued to the petitioners shows the entire amount as taxable income.

Pursuant to Idaho Code § 63-701(5), the monies disbursed from the petitioners' IRA must be included in household income for the purpose of the property tax reduction benefit. The amount to be added to the income reported in the petitioners' application is \$2,622.09 – the amount shown in the 1099-R less the \$11.40 of interest the petitioners listed when they completed the original application.

The petitioners' 2005 net income for determining the amount of their property tax reduction benefit is \$18,125. The petitioners qualify for a property tax reduction benefit of an amount not to exceed **\$820** rather than the \$1,020 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 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]

Receipt No.
