

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 19709
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

This case arises from a timely protest of a State Tax Commission staff decision adjusting 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.

All property within the jurisdiction of this state is subject to property tax. A property tax reduction benefit is available to certain qualifying individuals throughout the state. The benefit is in the form of payment of a portion or all of an applicant's property tax on the dwelling he/she owns and occupies. The payment is funded by state sales tax.

[Redacted] (petitioner) filed an application [Redacted] for the property tax reduction benefit on April 4, 2006.

Pursuant to Idaho Code § 63-707(5), the staff reviewed the petitioner's application and sent him a letter advising him of the intent to change the amount of his benefit because the medical expenses claimed in the application were more than the amount claimed in Schedule A of the petitioner's 2005 federal income tax return. The petitioner responded with a letter of protest. His file was transferred to the Legal/Tax Policy Division for administrative review.

Income for the purpose of the property tax reduction benefit 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 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.)

With his appeal, the petitioner provided copies of letters from various doctors and care facilities. The letters described the petitioner's wife's serious and lengthy illness requiring 24-hour care. There is no question that the medical expenses for the petitioner's wife's medical care are deductible medical expenses pursuant to Internal Revenue Code and for the purpose of the property tax reduction benefit.

The Tax Commission's notice and the subject of this appeal is the question of the petitioner's costs for staying at the same care facility where his wife was receiving care and treatment.

None of the petitioner's expenses for staying [Redacted] were covered by his Medicare while most of his wife's expenses were covered by her Medicare. In addition, the amount of the medical expense deduction shown in Schedule A of the petitioner's 2005 federal income tax return included the portion of the expenses that were not covered by Medicare for the petitioner's wife's stay at the care center. However, the medical expense deduction in Schedule A did not include any of the \$23,036.78 the petitioner paid for his rent, room service, carport, supplies, and guest meals for January through December 2005 at the same facility.

The Tax Commission does not question the petitioner's desire to be close to his wife during her stay at the facility and acknowledges the needs of both the petitioner and his wife. However,

Idaho Code § 63-701(5) (g) requires deductible medical expenses to follow the same requirements that are provided in the Internal Revenue Code. The Internal Revenue Code does not allow the deduction to include costs for meals and lodging if the reason for being there is personal. The petitioner resided [Redacted] while his wife was receiving medical care at the facility. The petitioner could not claim the costs as a medical deduction in his federal income tax return and cannot deduct it from his income for the purpose of this benefit.

The petitioner's 2005 income consisted of federal adjusted gross income of \$14,603 plus social security of \$13,572 and \$8,796 less allowable out-of-pocket medical expenses of \$11,521. His total 2006 net income for property tax reduction benefit purposes was \$25,450. The petitioner qualifies to receive a benefit of an amount not to exceed **\$320** for 2006.

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 Change Property Tax Reduction Benefit letter dated September 26, 2006, is APPROVED, AFFIRMED, and MADE FINAL.

An explanation of the petitioner'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]
[REDACTED]

Receipt No.
