

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 19790
[REDACTED],)	
)	DECISION
Petitioners.)	
_____)	

This case arises from a timely protest of a State Tax Commission staff's 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. 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.

[Redacted] (petitioners) filed an application for a property tax reduction benefit [Redacted] on March 24, 2006. In their application, the petitioners listed federal adjusted gross income of \$15,813 and social security income of \$13,994 and \$6,518 less capital gains of \$9,914 and medical expenses of \$4,848.

The staff compared the information shown in the application with records available to the State Tax Commission. It was noted the title to the property was in the name of a trust. The staff sent the petitioners a notice of the intent to deny them the benefit. They were asked to provide a copy of the portion of the trust agreement that would establish the petitioners as the beneficiaries of the trust with the primary right to occupy the property. In addition, the notice advised them of the

intent to include the capital gains in their income. The petitioners appealed the intended action, and their file was transferred to the Legal/Tax Policy Division for administrative review.

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.

(6) "Occupied" means actual use and possession.

(7) "Owner" means a person holding title in fee simple or holding a certificate of motor vehicle title (either of which may be subject to mortgage, deed of trust or other lien) or who has retained or been granted a life estate or who is a person entitled to file a claim under section 63-702, Idaho Code. "Owner" shall also include any person who:

(a) Is the beneficiary of a revocable or irrevocable trust which is the owner of such homestead and under which the claimant or the claimant's spouse has the primary right of occupancy of the homestead; or

The petitioners objected to the change to their income and sent a copy of the Living Trust of [Redacted]. The trust established the petitioners as the beneficiaries with the primary right of occupancy of the homestead.

Also with their letter of appeal, the petitioners provided copies of their 2005 federal Form 1099s showing their capital gains. They said, "On the application for tax reduction form obtained from the county it shows on Line 12 that capital gains are to be deducted from the adjusted gross income listed on line 1 if included."

Late in the 2006 legislative session, the Idaho Legislature removed the exclusion of capital gains from income for the purpose of the property tax reduction benefit. The change that was passed after most claimants had filled out their applications was retroactive to January 1, 2006. Although the application was incorrect, the code does not allow the petitioners to subtract capital gains from their income as they might have done in prior years.

The petitioners' application listed federal adjusted gross income of \$15,813 and social security of \$13,994 and \$6,518. When the \$9,914 of capital gains is added back into that income and \$5,183 of allowable medical expense is subtracted, the resulting net income for property tax reduction benefit purposes is \$31,477. Because the maximum income for a minimum benefit is \$28,000, the petitioners do not qualify to receive a property tax reduction benefit for 2006.

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 Intent to Deny Benefit letter dated October 18, 2006, is hereby 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]
[REDACTED]
[REDACTED]

Receipt No.
