

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 20239
[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.

[Redacted] (petitioner) filed an application [Redacted] for the property tax reduction benefit on April 14, 2006. The application was approved, and the petitioner received a benefit of \$820 for payment of her 2006 property tax.

Idaho Code §§ 63-707 and 63-708 provide for audit of all claims and recovery of benefits that have been paid in error. During review of the petitioner's application, the petitioner was asked to provide documentation for the \$18,831.83 of medical expense she had claimed.

Because the staff could verify only \$4,868 of the claimed medical expenses, the staff sent the petitioner a Notice of Deficiency Determination asking her to repay the 2006 benefit she appeared to have received in error. The petitioner appealed the determination, and her 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.)

In a letter to the petitioner that outlined her appeal rights, the petitioner was asked to provide computer printouts or year-end statements from her health care providers to substantiate her 2005 out-of-pocket medical expenses.

Internal Revenue Code § 213 allows a deduction for expenses paid during the taxable year, not compensated for by insurance or otherwise, for medical care of a taxpayer. The expenses include: “An amount paid during the taxable year for medicine or a drug shall be taken into account under subsection (a) only if such medicine or drug is a prescribed drug or is insulin.” The Code defines a drug as “. . . a drug or biological which requires a prescription of a physician for its use by an individual.”

The Code does not allow cosmetic surgery or other similar procedures to be considered medical care for the purposes of the medical care deduction. Cosmetic surgery is defined in the Code as “. . . any procedure which is directed at improving the patient’s appearance and does not meaningfully promote the proper function of the body or prevent or treat illness or disease.”

The petitioner provided receipts and year-end statements from her health care providers and numerous other receipts that do not qualify as medical care deductions pursuant to the definition in § 213(d) of the Internal Revenue Code (Code). The following document-supported expenses qualify for \$15,957.53 to be subtracted from the petitioner’s 2006 income for the purpose of the property tax reduction benefit:

[Redacted]

The following expenses are not allowed as deductions pursuant to Internal Revenue Code and are not allowed to reduce the petitioner's household income for the purpose of the property tax reduction benefit:

[Redacted]

In her application, the petitioner reported income of \$36,833.91. However, that income was reduced to \$36,380 when the petitioner filed an amended federal income tax return. When the \$15,957.53 of documented qualified medical expenses are deducted from that income, the petitioner's total net income for the purpose of the 2006 property tax reduction benefit is \$20,422.47. She qualified for a benefit not to exceed \$660. She received a benefit of \$820. Repayment of \$160 of the benefit is appropriate.

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 Notice of Deficiency Determination dated May 14, 2007, is hereby MODIFIED and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioner pays the following 2006 property tax benefit reimbursement and interest.

<u>BENEFIT</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$160.00	\$3.02	\$163.02

DEMAND for immediate payment of the foregoing amount is hereby made and given.

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

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

IDAHO STATE TAX COMMISSION

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COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2007, 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.

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