

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 20522
[REDACTED],)	
)	DECISION
Petitioners.)	
_____)	

This case arises from a timely protest of a State Tax Commission staff (staff) decision adjusting the property tax reduction benefit for 2007. 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 based on its contents.

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 a payment 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] submitted an application for a property tax reduction benefit on March 21, 2007. The staff [Redacted] sent that application together with the other applications to the Tax Commission for review and processing.

Income for property tax reduction benefit purposes is defined in Idaho Code § 63-701 as income received in the calendar year immediately preceding the year in which a claim is filed. The calculation of income starts with federal adjusted gross income and, thereafter, makes certain additions and deductions.

The staff's review of the petitioners' application found the only income the petitioners had listed was \$21,376 of federal adjusted gross income reduced by \$10,268 of medical expenses. Examination of the petitioners' application and comparing it with their federal income tax return identified social security in the amount of \$17,531 and pension and annuities in the amount of \$130,781 that were reported in the return but not added to the federal adjusted gross income.

The staff sent the petitioners a letter advising them of the intent to deny their benefit. The petitioners appealed, and their file was transferred to the Legal/Tax Policy Division for administrative review.

Idaho Code § 63-701(5) describes income as:

(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 their letter of protest and a subsequent telephone conversation, the petitioners stated the income shown as pension and annuities was not includable as income because it was an IRA that was rolled over to another IRA. They submitted a copy of a document [Redacted] entitled "Deposit Receipt for KEY ROTH IRA CD WITH RELATIONSHIP REWARD."

The Tax Commission contacted [Redacted] for an explanation of the above document. The staff [Redacted] confirmed the funds were rolled from one IRA to another. The petitioners were correct in not listing the rollover as income in their application for the property tax reduction benefit.

The Tax Commission examined the petitioners' 2006 federal individual income tax return.

The return listed a social security benefit of \$17,531 on line 20a. However, because the social security was not taxable, no amount was listed on line 20b and no amount was added to the petitioners' federal adjusted gross income.

The definition of income for the purpose of the property tax reduction benefit and defined in Idaho Code § 63-701(5), requires the social security benefit [Redacted] received in 2006 to be added to their federal adjusted gross income.

The petitioners' federal adjusted gross income of \$21,376 plus social security of \$17,531 less \$10,268 of medical expenses results in a net household income for the purpose of the property tax reduction benefit of \$28,639. The maximum income allowed for an applicant to receive a minimum 2007 benefit is \$28,000. The petitioners must be denied the 2007 property tax reduction benefit.

The State Tax Commission is aware there is some potential this decision could cause a hardship to the applicant for property tax reduction 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 Deny Benefits letter dated August 28, 2007, is APPROVED, AFFIRMED, and MADE FINAL.

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

DATED this _____ day of _____, 2007.

IDAHO STATE TAX COMMISSION

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]
[Redacted]

Receipt No.