

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

In the Matter of the Protest of )  
 )  
[REDACTED], ) DOCKET NO. 20609  
 )  
 ) DECISION  
Petitioner. )  
\_\_\_\_\_ )

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

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 the state sales tax.

[Redacted] filed an application with [Redacted] County for the property tax reduction benefit on February 24, 2007. Pursuant to Idaho Code § 63-707(5), the staff reviewed the petitioner's application and sent her a letter advising her of the intent to change the benefit from an amount not to exceed \$1,320 to an amount not to exceed \$324. The petitioner was asked to provide receipts to substantiate the medical expense she claimed in the application.

The petitioner responded with a letter appealing the determination that was submitted by the petitioner's daughter. The petitioner's daughter telephoned the staff for clarification of what was needed to resolve the matter. She said she would obtain and submit the statements from the providers.

The petitioner's file was transferred to the Legal/Tax Policy Division for administrative review. Neither the petitioner nor her daughter responded to a letter from the Tax Policy Specialist that outlined the petitioner's appeal rights. Efforts to contact them by telephone were unsuccessful.

Income for the property tax reduction benefit 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 petitioner did not provide any receipts or other proof that the medical expenses claimed in her application were accurate. The application the petitioner submitted listed total income of \$25,130 reduced by \$17,028 of medical expense qualifying the petitioner for a benefit of an amount not to exceed the maximum benefit of \$1,320.

IDADAPA 35.01-03.600 places the burden of proof on the petitioner:

**IDAPA35.01-03.600 PROPERTY EXEMPT FROM TAXATION.**

The burden of claiming exemption and the burden of proof of entitlement of the exemption is on the person claiming the exemption for the property.

The Tax Commission has no record of receiving the promised verification of medical expenses. Efforts to contact the petitioner by telephone have been unsuccessful. The only expense that can be confirmed is Medicare. Deducting the petitioner's Medicare of \$1,062 from the income reported in the application leaves a total net 2006 income of \$24,068. The petitioner qualifies to receive a benefit of an amount not to exceed \$420.

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 17, 2007, is hereby MODIFIED and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

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

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]

Receipt No.

\_\_\_\_\_