

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 20614
[REDACTED],	)	
	)	DECISION
Petitioner.	)	
_____	)	

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

[Redacted] filed an application for a property tax reduction benefit on March 30, 2007. During review of that application and the supporting documents, the information was compared with federal and state records. The staff identified income disbursed from an individual retirement account (IRA). The taxable portion of the disbursement had been subtracted from the income listed in the application. The nontaxable portion was omitted from the application.

The staff sent the petitioner a letter advising him that his income total for the purpose of the property tax reduction benefit was going to be increased to include the entire IRA disbursement. The petitioner protested the intended action that would deny him the benefit. His 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. (Emphasis added.)

The calculation of income starts with federal adjusted gross income and, thereafter, makes certain additions and deductions. The nontaxable portion of an IRA disbursement is specifically required to be included in income to determine the benefit amount a qualified applicant is to receive. One exception is funds that are qualified as “rollovers as provided in section 402 or 403 of the Internal Revenue Code.”

In his application, the petitioner showed a deduction for the taxed portion of his social security and the taxed portion of his IRA. The staff sent the petitioner a letter advising him of the intent to deny his 2007 property tax reduction benefit because the entire distribution from his IRA was required to be included in his income for the purpose of the benefit resulting in total income that exceeded the maximum allowed for an applicant to receive a minimum benefit.

During his protest and a telephone conference with the petitioner and his accountant, the petitioner explained that a portion of the IRA was taxable because he withdrew the money out of a traditional IRA and put it into a Roth IRA. The accountant said this transaction was a Roth conversion allowed in section 408A of the Internal Revenue Code. The petitioner and his accountant expressed their opinion that the entire transaction should not be included in the petitioner’s income for this benefit because the transaction was akin to a rollover in that he did not keep the money.

All property within the jurisdiction of this state is subject to property tax. A property tax reduction benefit program is available to certain qualifying individuals throughout the state. 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. However, income is defined differently for the property tax reduction benefit program than it is described in the income tax code.

Idaho Code § 705(5) describes income by starting with federal adjusted gross income and adding and subtracting certain other income. There is no provision for deducting the taxable portion of an IRA distribution. Rather, the description includes the nontaxable portion of an IRA disbursement and does not provide for subtracting the taxable portion. The petitioner's disbursement was not a rollover as provided in section 402 or 403 of the Internal Revenue Code. It was a Roth conversion – a taxable event for income tax purposes and income for the purpose of the property tax reduction benefit. The petitioner's IRA distribution must be included in his income for the purpose of the 2007 property tax reduction benefit.

When the nontaxable portion of the petitioner's IRA distribution is added to his federal adjusted gross income and social security and his medical expenses are subtracted, his income exceeds the \$28,000 maximum income allowed for an applicant to receive a minimum benefit. The petitioner 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 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 decision of the State Tax Commission staff to deny the petitioner the 2007 property tax reduction benefit 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 BY MAIL

I hereby certify that I have on this \_\_\_\_ day of \_\_\_\_\_, 2007, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

Receipt No.

\_\_\_\_\_