

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 20649
[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 February 26, 2007. The [Redacted] County Assessor's office sent that application together with the other applications that had been submitted to the Tax Commission for review and processing.

Income for the 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 petitioners had not listed annuities shown in four federal Forms 1099-R issued in their names. The staff sent the petitioners a letter advising them of the intent to deny their benefit because the inclusion of the annuities increased their income beyond the maximum allowed for an applicant to receive a minimum benefit. The petitioners appealed, and their file was transferred to the Legal/Tax Policy Division for administrative review.

An informal conference with the petitioners was held on October 24, 2007. The petitioners explained that the money used to purchase the investments was awarded to [Redacted] from a class action lawsuit against the company that marketed phen phen. Use of the drug for weight loss permanently damaged many of [Redacted] body organs. She said she cashed the annuities in 2006 to cover medical expenses.

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.

The petitioners do not claim they did not receive the funds from their annuities. They state they feel the money should not be included in income because of the damage to [Redacted]'s body and the ensuing medical expenses. Idaho Code § 63-701 requires an applicant to include both the taxable and the nontaxable portions of annuities in total income for the purpose of determining the applicant's eligibility for the benefit and the amount of benefit an applicant qualifies to receive.

When the \$21,208 annuity disbursements are added to the petitioners' \$26,608 of income reported in their application and their \$4,814 reported medical expenses are subtracted, the resulting income of \$40,794 exceeds the maximum amount allowed for a minimum benefit. 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 Property Tax Reduction Benefit letter dated October 2, 2007, is APPROVED, AFFIRMED, and MADE FINAL.

An explanation of the petitioners' 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.