BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of	)	
	)	DOCKET NO. 21461
[REDACTED],	)	
	)	DECISION
Petitioner.	)	
	)	

This case arises from a timely protest of a State Tax Commission (Commission) staff decision adjusting the property tax reduction benefit for 2008. This matter was submitted for a decision based on the documents in the file. The Commission has reviewed the file and makes its decision based on the contents.

[Redacted] Sr. (petitioner) filed a property tax reduction application with the [Redacted] County Assessor's office in March, but on what date, is unclear. The date next to the petitioner's signature on the application is March 30, 2008. The [Redacted] County Assessor's office date stamped it as received on March 20, 2008. The assessor's office sent that application, together with other applications, to the Commission for review and processing.

During review of that application and a comparison to records available to the Commission, the staff discovered that the petitioner passed away on March 11, 2008. Because of the discrepancy concerning the date the application was received, the staff sent the [Redacted] Sr. (Estate) a letter informing it of the intent to deny the benefit. The Estate protested the intended action, and the file was transferred to the Legal/Tax Policy department for further consideration.

Idaho Code § 63-702 states:

> CLAIM IS PERSONAL -- EXCEPTIONS. (1) The right to file a claim under the provisions of sections 63-701 through 63-710, Idaho Code, shall be personal to the claimant and shall not survive his death except as otherwise provided in this section. A property

> tax reduction shall be allowed pursuant to the provisions of sections 63-701 and 63-710, Idaho Code, if the owner occupies the residential improvements after January 1 but before April 15, and if no other property tax reductions have been claimed. Such right may be exercised on behalf of a living claimant by an agent authorized in writing to so act, by a guardian or other representative acting pursuant to judicial authority or by any person or entity described in section 63-711(3), Idaho Code. If a claimant dies after having filed a timely claim, the amount thereof shall be allowed to his personal representative, if one is appointed, or to surviving heirs or to the trust or other entity owning the property, as appropriate.
>
> (2) In the case of property owned by an estate, revocable trust, irrevocable trust, limited partnership, limited liability company or corporation, where the deceased person's widow or widower succeeds to the interest of the deceased person in that entity and occupies the dwelling as required in this chapter, the deceased owner's widow or widower, or any person or entity described in section 63-711(3), Idaho Code, on behalf of that widow or widower:
>
> (a) May file a claim on behalf of the deceased spouse if the deceased spouse qualified or would have qualified as a claimant on January 1 or before April 15 of the year in which the claim is filed; or
>
> (b) The widow or widower shall be deemed the owner of the property in any year after the year of the death of the spouse.

Applications for the property tax reduction benefit for year 2008 had to be submitted to the assessor's office of the county in which the petitioner resides before April 15, 2008. In the present matter, the question is not whether the application was filed before the deadline, but whether or not the application was submitted before the passing of the petitioner.

The letter of protest received from the Estate claimed that the application for the property tax reduction benefit, along with the other tax forms, were all mailed on the same day, March 8, 2008.

The date on the application next to the petitioner's signature, March 30, 2008, is obviously incorrect due to the fact that the petitioner's date of death was March 11, 2008. The

postmark date on the envelope in which the application was mailed would clarify the exact date of mailing; however, it was not retained by the assessor's office.

A review of Commission records shows that Form 24 was received in the Commission's office on March 10, 2008, and was dated March 8, 2008. The additional documents, a copy of the federal Form 1040 EZ and the medical expense statement, that were submitted along with the application, were also dated March 8, 2008.

Based on the review of records available to the Commission, the additional documentation submitted with the application, and the lack of evidence to the contrary, the Estate's claim that the application was mailed on March 8, 2008, seems not only plausible but reasonable. The petitioner's application is determined to be filed prior to his death; the Estate [Redacted] Sr. qualifies to receive a property tax reduction benefit of $**1,250.**

WHEREFORE, the Intent to Deny Property Tax Reduction Benefit letter dated October 6, 2008, is hereby CANCELLED.

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

DATED this _____ day of _____, 2009.

IDAHO STATE TAX COMMISSION

_____

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2009, 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.

_____