

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 21848
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

This case arises from a timely protest of a State Tax Commission (Commission) staff's (staff) decision adjusting the property tax reduction benefit for 2008. The petitioner requested an informal telephone conference, and it was held May 13, 2009. 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 its contents.

[Redacted](petitioner) filed an application for the 2008 property tax reduction benefit on March 7, 2008. The application was approved, and the petitioner received a benefit for payment of the property tax on his homestead.

The petitioner's application, along with supporting documentation, which included a copy of his 2007 federal income tax return, was reviewed by the [Redacted] County Assessor's office. The assessor's office modified the petitioner's application with respect to total income, notified the petitioner of the change, and informed him that his application would be forwarded to the Commission for final approval.

Idaho Code §§ 63-707 and 63-708 provide for audits of all claims and recovery of benefits that have been paid in error. When the staff reviewed the application and the supporting documents, the accuracy of the petitioner's 2007 self-prepared federal income tax return came into question.

Idaho Code § 63-708 stated, in pertinent part:

63-708. RECOVERY OF ERRONEOUS CLAIMS. Within three (3) years of payment, the state tax commission may recover any erroneous or incorrect payment made under sections 63-701 through 63-710, Idaho Code, from any "claimant" as defined in section 63-701(1), Idaho Code. The deficiency determination, collection, and enforcement procedures provided by the Idaho income tax act, sections 63-3039, 63-3042, 63-3043 through 63-3064, Idaho Code, shall apply and be available to the commission for enforcement and collection under sections 63-701 through 63-710, Idaho Code, and such sections shall, for this purpose, be considered part of sections 63-701 through 63-710, Idaho Code. Wherever liens or any other proceedings are defined as income tax liens or proceedings, they shall, when applied in enforcement or collection under sections 63-701 through 63-710, Idaho Code, be described as tax relief liens and proceedings. In connection with such sections, a deficiency shall consist of any amount erroneously claimed by or paid to a claimant under sections 63-701 through 63-710, Idaho Code.

On March 23, 2009, a Notice of Deficiency Determination (NODD) was issued to [Redacted], and the petitioner was asked to repay the benefit plus interest. In response to the NODD, the Commission received a letter from the petitioner stating that it was the county who made an error in the determination of his income, not him.

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. In the present case, the federal income tax

return provided by the petitioner was not correct. The Commission, therefore, calculated the petitioner's income as if no return was submitted. The petitioner reported social security income of \$17,466 and his spouse reported social security income of \$7,362 for a total of \$24,828. When the retirement distribution of \$6,803 is added and out-of-pocket medical expenses of \$5,087 are subtracted, the petition's total income is \$26,544.

The petitioner's total net income for the purpose of the property tax reduction benefit is \$26,544. The petitioner qualifies to receive a property tax reduction benefit of an amount not to exceed **\$250**, not the \$707.46 benefit he received.

While it is unfortunate an error occurred in the calculation of total income, the fact remains that the petitioner received a property tax benefit to which he was not entitled.

WHEREFORE, the Notice of Deficiency Determination letter dated March 23, 2009, is hereby APPROVED, AFFIRMED, and MADE FINAL.

It is ordered and this does order that the petitioner pays the following 2008 property tax reduction benefit reimbursement and interest.

<u>BENEFIT</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$457.46	\$6.40	\$463.86

DEMAND for immediate payment of the foregoing amount is hereby made and given.

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.
