

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 21966
[Redacted]	)	
Petitioner.	)	DECISION
	)	
	)	
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This case arises from a timely protest of an Idaho State Tax Commission (Commission) staff's decision adjusting a 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 in the file.

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 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.

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

Idaho Code §§ 63-707 and 63-708 provide for an audit of all claims and recovery of benefits that have been paid in error. In conjunction with the audit, the petitioner was asked to complete a medical expense form and furnish receipts for the \$19,343 of medical expenses he had claimed in his application. When no response was received, a Notice of Deficiency Determination (NODD) was issued, and the petitioner was asked to repay the amount of the benefit received plus interest. The petitioner protested the determination.

The petitioner's protest received on June 1, 2009, stated that he was in the process of obtaining medical receipts but needed more time. The petitioner's file was transferred to the Legal/Tax Policy Division for administrative review.

The petitioner responded by phone to a letter from the tax policy specialist that outlined his appeal rights. The petitioner did not request a hearing. He instead asked for another extension of time to locate medical receipts and statements from providers. An extension, until September 8, 2009, was granted, but to date, no additional information has been received.

Income for property tax reduction benefit purposes is defined in Idaho Code § 63-701(5) as follows:

(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 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 capital gains, 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/or, if applicable, 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 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. (Emphasis added.)

For property tax reduction benefit purposes, medical expenses defined in the Internal Revenue Code are deducted from income. However, the petitioner has only provided documentation for \$561 of the \$19,343 medical expenses shown on the application. When the \$561 of allowable medical expenses is excluded from income, the petitioner's net income for the purpose of the property tax reduction benefit is \$43,042.

The petitioner's 2007 income for the purpose of the property tax reduction benefit exceeds the \$28,000 maximum income allowed for a minimum 2008 property tax reduction benefit. The petitioner must be denied the benefit.

WHEREFORE, the Notice of Deficiency Determination dated April 29, 2009, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioner repay the following 2008 property tax reduction benefit plus interest.

<b>BENEFIT</b>	<b>INTEREST</b>	<b>TOTAL</b>
\$390.00	\$6.81	\$396.81

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

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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.

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