

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 22251
[REDACTED])	
Petitioner.)	DECISION
)	
_____)	

This case arises from a timely protest of a State Tax Commission (Commission) staff decision adjusting the property tax reduction benefit for 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 the file.

[Redacted] (petitioner) filed a property tax reduction application on April 10, 2009. During review of the application, the staff noted the petitioner had checked the box to indicate she was a widow, and a copy of a Certificate of Death for one [Redacted] was included with the application.

After review of the application and accompanying documents, the staff sent the petitioner a letter advising her of the intent to deny her the property tax reduction benefit because the Certificate of Death showed [Redacted] was divorced at the time of his death. The petitioner protested the intended action, and her file was transferred to the Legal/Tax Policy Division for administrative review.

When the petitioner received a letter from the tax policy specialist advising her of her appeal rights, the petitioner sent a letter explaining her various medical conditions and medical reports from her local hospital confirming her conditions. She did not request a hearing.

Idaho Code § 63-701 uses definitions to describe the conditions that must exist for an applicant to qualify to receive the property tax reduction benefit. The code states in pertinent part:

63-701. DEFINITIONS. As used in this chapter:

(1) **"Claimant" means a person who has filed a claim** under the provisions of sections 63-701 through 63-710, Idaho Code. Except as provided in section 63-702(2), Idaho Code, on January 1, or before April 15, of the year in which the claimant first filed a claim on the homestead in question, a claimant must be an owner of the homestead and **on January 1 of said year a claimant must be:**

- (a) Not less than sixty-five (65) years old; or
- (b) A child under the age of eighteen (18) years who is fatherless or motherless or who has been abandoned by any surviving parent or parents; or
- (c) **A widow** or widower; or
- (d) A disabled person who is recognized as disabled by the social security administration pursuant to title 42 of the United States Code, or by the railroad retirement board pursuant to title 45 of the United States Code, or by the office of management and budget pursuant to title 5 of the United States Code; or
- (e) A disabled veteran of any war engaged in by the United States, whose disability is recognized as a service-connected disability of a degree of ten percent (10%) or more, or who has a pension for nonservice-connected disabilities, in accordance with laws and regulations administered by the United States department of veterans affairs; or
- (f) A person, as specified in 42 U.S.C. 1701, who was or is entitled to receive benefits because he is known to have been taken by a hostile force as a prisoner, hostage or otherwise; or
- (g) Blind. (Emphasis added.)

The code sets out certain eligibility requirements for persons seeking a property tax reduction benefit. In her application for the benefit and in her letter of protest, the petitioner claims she is eligible because of her status as a widow. However, the existing record shows the man the petitioner identifies as her husband was not married when he died. In addition, one of the documents provided by the petitioner was a History and Physical report from [Redacted], dated June 26, 2006. Under the category of Family History, the report states, "Significant in that her husband from which she was divorced had recently died."

Property Tax Administrative Rule 600 States:

600. PROPERTY EXEMPT FROM TAXATION (RULE 600).

The burden of proof of entitlement to the exemption is on the person claiming exemption for the property.

The petitioner has provided nothing to support her claim of being a widow except her statement that she receives widow benefits from Social Security. The petitioner does in fact receive payments from Social Security, however, according to the 1099-SSA, the petitioner receives benefits as a surviving divorced wife, age 60 or over. The petitioner does not qualify as a widow, nor does she meet any other status requirements, therefore, she must be denied the benefit.

WHEREFORE, the decision of the State Tax Commission staff to deny the 2009 property tax reduction benefit is hereby APPROVED, AFFIRMED, and MADE FINAL.

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.
