

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
) DOCKET NO. 22273
[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 2009. An informal hearing was requested by phone and was held on November 19, 2009. Present for the hearing was tax policy specialist [Redacted] and [Redacted], husband of the petitioner. The petitioner submitted additional documentation prior to the hearing. The Commission has reviewed the additional information, along with 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] (petitioner) submitted an application for a property tax reduction benefit on February 20, 2009. The staff of the [Redacted] sent that application, together with the other applications, to the Commission for review and processing.

Pursuant to Idaho Code § 63-707(5), the staff reviewed the petitioner’s application and compared it with Commission records. In the petitioner’s application, she listed federal adjusted gross income of \$955, social security income of \$9,432, along with her spouse’s social security

income of \$12,600, and interest income of \$93, that was reduced by \$2,107 of medical expenses. [Redacted].

Because the 2009 property tax reduction benefit depends on 2008 income, the staff sent the petitioner a letter advising her of the intent to deny her the benefit. The additional income increased the petitioner's 2008 income for the purpose of this benefit beyond the \$28,000 maximum allowed for a minimum benefit. The petitioner appealed, and the file was transferred to the Legal/Tax Policy Division for administrative review.

Income for 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.

During 2008, the petitioner received money from the [Redacted] government that was not taxable under Internal Revenue Code (IRC) section 131. That nontaxable income is described in Section 131 as compensation for providing difficulty of care or the additional care of a qualified foster individual.

Pursuant to IRC section 131, the money paid to the petitioner is: "compensation for providing the additional care of a qualified foster individual which is required by reason of physical, mental or emotional handicap of such individual with respect to which the state has determined that there is a need for additional compensation, . . ." The compensation provided to the petitioner by the Idaho Department of Health and Welfare is partially funded by the federal Social Security Act.

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. (Emphasis added.)

Because the compensation the petitioner receives for the care of her disabled son is provided for and funded by the federal Social Security Act, the income must be included in the petitioner's total 2008 income. The result is that the petitioner's total 2008 income for the purpose of this benefit exceeds the maximum amount allowed. The petitioner must be denied the 2009 property tax reduction benefit.

WHEREFORE, the Intent to Deny Benefits letter dated October 8, 2009, 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.
