

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

In the Matter of the Protest of )  
 ) DOCKET NO. 22274  
[Redacted] )  
 ) DECISION  
Petitioner. )  
\_\_\_\_\_ )

This case arises from a timely protest of a State Tax 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 State Tax Commission has reviewed the file and makes its decision.

[Redacted] (petitioner) filed a property tax reduction benefit application on January 6, 2009. During review of that application and comparison of the information with State Tax Commission records, the staff identified 1099-Misc income that was not included in the application.

The staff sent the petitioner a letter advising him that the income total, for the purpose of the property tax reduction benefit, was going to be increased to include the amount of miscellaneous income reported on the 1099-Misc. The petitioner protested the intended action that would result in a denial of a property tax reduction benefit. His file was transferred to the Legal/Tax Policy Division for administrative review.

All property within the jurisdiction of this state is subject to property tax. A property tax reduction benefit is available to certain qualifying individuals throughout the state. The benefit is in the form of payment of a portion or all of an applicant's property tax on the dwelling he/she owns and occupies. The payment is funded by the state sales tax.

The amount of property tax reduction depends on income--the greater the income, the smaller the benefit. 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.]

Gross income is defined in Internal Revenue Code section 61:

General definition Except as otherwise provided in this subtitle, gross income means all income from whatever source derived, including (but not limited to) the following items:

- (1) Compensation for services, including fees, commissions, fringe benefits, and similar items;
- (2) Gross income derived from business;
- (3) Gains derived from dealings in property;
- (4) Interest;
- (5) Rents;
- (6) Royalties;
- (7) Dividends;
- (8) Alimony and separate maintenance payments;
- (9) Annuities;
- (10) Income from life insurance and endowment contracts;
- (11) Pensions;
- (12) Income from discharge of indebtedness;
- (13) Distributive share of partnership gross income;
- (14) Income in respect of a decedent; and
- (15) Income from an interest in an estate or trust.

The calculation of income for the property tax reduction benefit begins with federal adjusted gross income. If the claimant is not required to file a federal income tax return, the starting point for the income calculation is the equivalent of the federal adjusted gross income, had the claimant filed a federal return.

In the present matter, the petitioner did not file a federal income tax return. Therefore, the starting point for the calculation of income would be the equivalent of the federal adjusted gross income.

The petitioner reported social security income in the amount of \$13,284 for himself and \$4,608 for his spouse and income from pensions/annuities of \$2,040. When the \$28,397 of miscellaneous income is added, and the \$1,590 of medical expenses is subtracted, the total income for the purposes of the property tax reduction benefit is \$46,739.

The petitioner's 2008 income for the purpose of the property tax reduction benefit exceeds the \$28,000 maximum income allowed for a minimum 2009 property tax reduction benefit. The petitioner must be denied the benefit.

WHEREFORE, the Intent to Deny Property Tax Reduction Benefit letter dated October 1, 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.  
\_\_\_\_\_