

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

In the Matter of the Protest of )  
[Redacted] ) DOCKET NO. 22291  
 )  
 ) DECISION  
Petitioner. )  
\_\_\_\_\_ )

This case arises from a timely protest of a State Tax Commission staff (staff) decision to deny 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 April 15, 2009. The application did not include any income information, however, the petitioner did indicate by checking a box that an extension of time to file income taxes had been submitted.

The staff sent the petitioner a letter notifying him that, without income information, his application was incomplete and eligibility for the property tax reduction program could not be determined. The petitioner protested the intended action that would result in a denial of a property tax reduction benefit.

All property within the jurisdiction of this state is subject to property tax. The property tax reduction benefit program is available to certain qualifying individuals throughout the state. The benefit is in the form of payment (either total or partial) 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 the property tax reduction depends on income--the greater the income, the smaller the benefit. However, income is defined differently for the property tax reduction benefit

program than it is described in the income tax code. 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 [Redacted] income and, thereafter, makes certain additions and deductions. The nontaxable portions of annuities are specifically required to be included in income to determine the benefit amount that a qualified applicant is to receive. The only exception is if the annuities are determined to be qualified as “rollovers as provided in section 402 or 403 of the Internal Revenue Code.”

The property tax reduction benefit is not [Redacted] or state income tax – it is payment of the property tax based on certain qualifying factors including income. Pursuant to the definition of income as stated in Idaho Code § 63-701(5), the nontaxable portion of annuities, pensions, and retirement accounts is required to be included in income to determine the benefit amount a qualified applicant receives.

In the present matter, the petitioner, at the time the application was submitted, had not filed a 2008 [Redacted] income tax return. The petitioner was given an extension of time to submit income information and subsequently provided a 2008 [Redacted] income tax return.

The petitioner’s return reported a [Redacted] income of \$6,935. The return also showed a gross distribution from pensions, annuities, and retirement accounts of \$23,964, of which \$10,728 was taxable. For the purpose of the property tax reduction benefit program, the nontaxable portion, in this case \$13,236, must be included in the petitioner’s income.

The petitioner reported a [Redacted] income of \$6,935. When added to the petitioner’s social security income of \$8,945, his spouse’s social security income of \$3,749, the nontaxable portion of pensions and annuities of \$13,236, and subtracting medical expenses of \$3,019, the petitioner’s total net household income for 2008 is \$29,846.

The petitioner's 2008 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 Intent to Deny Property Tax Reduction Benefit letter dated October 7, 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 \_\_\_\_\_ 2010.

IDAHO STATE TAX COMMISSION

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COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2010, 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.

Copy Mailed to:

[Redacted]

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