

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 22802
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

This case arises from a timely protest of a State Tax Commission (Commission) staff's 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.

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 on February 3, 2009. The [Redacted] County Assessor's office approved the application, and the petitioner received a benefit for payment of the property tax on her 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. During the review of the petitioner's application and records available to the Commission, the staff discovered income that had not been included in the application. The omitted income was gross proceeds from the sale of real estate in the amount of \$74,000.

A Notice of Deficiency Determination (NODD) was issued, and the petitioner was asked to repay the benefit received plus interest.

The petitioner appealed the notice. The petitioner said she did not receive any of the money from the sale of the property because it was her mother's residence and the proceeds went to pay for her mother's medical care. The petitioner said her mom added her name to the deed on the property several years ago, after her father passed away, with the intent she would inherit the property. The petitioner's 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(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.

During the appeals process, the petitioner provided some documentation pertaining to the real estate sale reflected in the federal Form 1099 in the petitioner's name. The petitioner provided the closing statement for the property, along with a property tax bill for year 2006 and a copy of the warranty deed from 1998, the year the petitioner's name was added to the property.

The Tax Policy Specialist telephoned the petitioner and asked some additional questions to try and determine the petitioner's basis in the property. The petitioner stated she had no idea what her basis was nor did she believe she had the paperwork to determine what it might be. In an effort to be fair and equitable, the policy specialist telephoned the [Redacted] county assessor to obtain the assessed value of the property in 1998. Unfortunately, the records for 1998 were unavailable. However, 1997 and 1999 were accessible. The two values were averaged and \$45,993 was determined to be both a reasonable assessed value and basis for the petitioner in the property in 1998.

The petitioner was the person holding title in fee simple to the property that sold for \$74,000. With the Commission determined basis of \$45,993, the petitioner would have a capital gain of \$28,007. When this additional income is added to federal adjusted gross income of \$14,864, social security income of \$1,205, non-taxable portion of income from pensions and annuities of \$4,376, and medical expenses of \$3,182 are subtracted, 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 repay the benefits received.

WHEREFORE, the Notice of Deficiency Determination dated March 30, 2010, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioner pay the following 2009 property tax reduction benefit reimbursement and interest.

<u>YEAR</u>	<u>BENEFITS PAID</u>	<u>INTEREST</u>	<u>TOTAL</u>
2009	\$667.98	\$6.86	\$674.84

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 _____ 2010.

IDAHO STATE TAX COMMISSION

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.
