

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
[Redacted],) DOCKET NO. 22849
Petitioner.)
DECISION
_____)

This case arises from a timely protest of a State Tax Commission (Commission) decision adjusting a property tax reduction benefit for 2008. 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 contents in the file.

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 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 the property tax reduction depends on income--the greater the income, the smaller the benefit.

Mr. [Redacted] (petitioner) filed an application for a property tax reduction benefit [Redacted]The application was approved, and the petitioner received a benefit for payment of the property tax on his homestead.

Idaho Code §§ 63-707 and 63-708 provide for an audit of all claims and the recovery of benefits that have been paid in error. During review of that application and records available to the Commission, the Commission discovered income that had not been included in the application. The omitted income was from interest and dividends received along with the capital gains from the sale of stock.

A Notice of Deficiency Determination (NODD) was issued on March 30, 2010, and the petitioner was asked to repay the benefit received plus interest. In response to the NODD, the petitioner submitted a written protest and requested copies of the 1099s that the Commission had used to adjust his income for the purpose of the property tax reduction benefit. The Commission granted his request for copies of the 1099s, and his file was transferred to the Legal/Tax Policy Division for administrative review.

The petitioner responded to a letter from the tax policy specialist, wherein he was advised of his rights regarding his appeal. He requested an informal hearing and stated he would be providing additional information for the Commission's consideration. However, to date the petitioner has not provided any additional documentation nor has he scheduled an informal hearing. Therefore, the Commission decided the matter based upon the information available.

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.

In the present case, the petitioner included only social security income of \$20,070 and medical expenses of \$2,773 on the application. When the \$5,832 in capital gains is added, along with the interest income of \$275, the resulting net income for property tax reduction benefit purposes is \$23,404. The petitioner qualifies to receive a maximum property tax reduction benefit of an amount not to exceed \$450.

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

IT IS ORDERED and THIS DOES ORDER that the petitioner repay the following 2008 property tax reduction benefit plus interest.

<u>BENEFIT</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$440.00	\$31.04	\$471.04

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.