

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 22898
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

This case arises from a timely protest of a State Tax Commission (Commission) decision adjusting a property tax reduction benefit for taxable year 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 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 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 [Redacted]The application was approved, and the petitioner received a benefit for payment of a portion of the property tax on his 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. [Redacted], the petitioner’s net household income exceeded the maximum amount to receive a minimum benefit.

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

The petitioner, through his tax preparer, protested the deficiency. The protest letter stated that while a capital gain from the sale of property was included in the adjusted gross income reported on the petitioner's income tax return, it should be excluded from net household income for the purpose of the property tax reduction benefit because the petitioner did not actually receive any money from the sale. 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. (Emphasis added.)

[Redacted].

[Redacted].

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 Notice of Deficiency Determination dated March 31, 2010, is hereby APPROVED, AFFIRMED, and MADE FINAL.

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

<u>BENEFIT</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$390.00	\$4.06	\$394.06

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.
