

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 23804
[Redacted],	)	
	)	
Petitioner.	)	DECISION
_____	)	

This case arises from a timely protest of a State Tax Commission (Commission) staff's decision adjusting a property tax reduction benefit for taxable year 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 property tax reduction depends on income--the greater the income, the smaller the benefit. Idaho Code section 63-701(5)(g) states that income shall be that received (reported) in the calendar year immediately preceding the year in which a claim is filed.

[Redacted] (petitioner) filed an application for a property tax reduction benefit with [Redacted] County for taxable year 2008. The application was approved, and the petitioner received a benefit for payment of a portion 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. Based on records available to the Commission, the staff discovered the petitioner filed an amended federal tax return for taxable year 2007 to include income that had not been reported on the original return.

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

The petitioner's protest letter was submitted on her behalf by the preparer of her 2007 federal income tax return. The tax preparer stated that she had inadvertently missed reporting one of the IRA distributions received by the petitioner in taxable year 2007 and, therefore, filed an amended [Redacted] return to correct the error. The preparer's letter then discussed how the 2008 increase in assessed property values in [Redacted] County, along with the death of her husband, had caused financial hardship for the petitioner. She requested the Commission grant an abatement of the additional taxes due.

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 veteran's 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 federal adjusted gross income and, thereafter, makes certain additions and deductions. The federal adjusted gross income amount is taken directly from the petitioner's federal income tax return. When an amended tax return is filed changing the amount of federal adjusted gross income, the income for the purpose of the property tax reduction benefit must change as well.

In the present matter, the petitioner's 2007 [Redacted] adjusted gross income shown on line 37 of her amended [Redacted] income tax return is \$14,323. When social security income of \$13,369 is added and \$2,619 of out-of-pocket medical expenses is subtracted, the petitioner's 2007 net income for property tax reduction benefit purposes is \$25,073.

The petitioner qualifies to receive the maximum property tax reduction benefit of an amount not to exceed **\$350**.

THEREFORE, the Notice of Deficiency Determination dated February 8, 2011, 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>
\$170.00	\$19.35	\$189.35

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayer's right to appeal this decision is enclosed.

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2011.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2011, 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.  
  
\_\_\_\_\_