

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 23917
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

This case arises from a timely protest of a State Tax Commission staff (staff) decision adjusting the property tax reduction benefit for taxable year 2010. This matter was submitted for decision based on the documents in the file. The State Tax Commission (Commission) has reviewed the file and makes its decision thereon.

[Redacted] (petitioner) filed a property tax reduction benefit application with the [Redacted] County Assessor’s office on February 20, 2010. The application was approved, and the petitioner received a benefit for payment of the property tax on the homestead.

Idaho Code §§ 63-707 and 63-708 provide for the audit of all claims and recovery of benefits that have been paid in error. When the staff compared the petitioner’s application with [Redacted] County records, the staff discovered ownership of the property was in the name of the [Redacted] Trust.

The property tax reduction benefit is described in Idaho Code § 63-701, in pertinent part:

63-701. Definitions. As used in this chapter:

(1) “Claimant” means a person who has filed an application under section 63-602G, Idaho Code, and has filed a claim under the provisions of sections 63-701 through 63-710, Idaho Code. Except as provided in section 63-702(2), Idaho Code, on January 1, or before April 15, of the year in which the claimant first filed a claim on the homestead in question, a claimant must be an owner of the homestead and on January 1 of said year a claimant must be:

. . .

(2) “Homestead” means the dwelling, owner-occupied by the claimant as described in this chapter and used as the primary dwelling place of the claimant and may be occupied by any members of the household as their home, and so

much of the land surrounding it, not exceeding one (1) acre, as is reasonably necessary for the use of the dwelling as a home.

(7) “Owner” means a person holding title in fee simple or holding a certificate of motor vehicle title (either of which may be subject to mortgage, deed of trust or other lien) or who has retained or been granted a life estate or who is a person entitled to file a claim under section 63-702, Idaho Code. “Owner” shall also include any person who:

(a) Is the beneficiary of a revocable or irrevocable trust which is the owner of such homestead and under which the claimant or the claimant’s spouse has the primary right of occupancy of the homestead.

Idaho Code § 63-701 requires the subject property to be owner-occupied and used as the primary dwelling place of the claimant for the property tax reduction benefit. Because the recorded owner of the property was a trust, the staff sent the petitioner a letter requesting a complete copy of the trust to establish that he is the beneficiary of the trust. The petitioner did not respond, and a Notice of Deficiency Determination (NODD) was issued requesting repayment of the benefit received.

The petitioner appealed the NODD and his file was transferred to the Legal/Tax Policy Division for administrative review.

To qualify as a claimant for circuit breaker purposes, the applicant must be the owner of a homestead on January 1 of the year in which the claim was filed. The records show the owner of the subject property on January 1, 2010, was the [Redacted] Trust.

For a claimant to qualify as the owner of a property held in trust, the claimant must be named as beneficiary of that trust. The petitioner has failed to provide any documentation to prove that he is the beneficiary of the [Redacted] Trust.

The Commission is unable to verify that the petitioner meets the ownership eligibility requirement for a property tax reduction benefit.

THEREFORE, the Notice of Deficiency Determination dated February 15, 2011, and directed to [Redacted], is hereby APPROVED.

The NODD has been paid in full, therefore, no DEMAND for payment is made or necessary.

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.
