

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 24517
[Redacted],	)	
	)	
Petitioner.	)	DECISION
_____	)	

This case arises from a timely protest of a State Tax Commission (Commission) decision to deny a property tax reduction benefit for taxable year 2011. 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 the property tax reduction benefit depends on the income received by a claimant and, if married, the claimant’s spouse--the greater the income, the smaller the benefit.

[Redacted] (petitioner) submitted an application for a property tax reduction benefit on April 4, 2011. The staff of [Redacted] County sent that application, together with other applications, to the Commission for review and processing.

In the petitioner’s application for the property tax reduction benefit, she indicated by checking a box that she was married. The petitioner provided her spouse’s name and social security number, but no income information. Therefore, in order to determine if the petitioner met the income eligibility requirements, the Commission researched records available to reveal any monetary payments made to the petitioner’s spouse in taxable year 2010. According to

information available to the Commission, the taxpayer's spouse received interest income of \$35 and miscellaneous income reported on form 1099 totaling \$130,210.

The staff sent the petitioner a letter advising her that the income total, for the purpose of the property tax reduction benefit, was going to be increased to include her spouse's income. The petitioner protested the intended action that would result in a denial of a property tax reduction benefit. Her file was transferred to the Legal/Tax Policy Division for administrative review.

Idaho Code § 63-701 states, 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 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:

- (a) Not less than sixty-five (65) years old; or
- (b) A child under the age of eighteen (18) years who is fatherless or motherless or who has been abandoned by any surviving parent or parents; or
- (c) A widow or widower; or
- (d) A disabled person who is recognized as disabled by the social security administration pursuant to title 42 of the United States Code, or by the railroad retirement board pursuant to title 45 of the United States Code, or by the office of management and budget pursuant to title 5 of the United States Code; or
- (e) A disabled veteran of any war engaged in by the United States, whose disability is recognized as a service-connected disability of a degree of ten percent (10%) or more, or who has a pension for nonservice-connected disabilities, in accordance with laws and regulations administered by the United States department of veterans affairs; or
- (f) A person, as specified in 42 U.S.C. 1701, who was or is entitled to receive benefits because he is known to have been taken by a hostile force as a prisoner, hostage or otherwise; or
- (g) Blind.

(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. It may consist of a part of a multidwelling or multipurpose building and part of the land upon which it is built.

"Homestead" does not include personal property such as furniture, furnishings or appliances, but a manufactured home may be a homestead.

(3) "Household" means the claimant and the claimant's spouse. The term does not include bona fide lessees, tenants, or roomers and boarders on contract. "Household" includes persons described in subsection (8)(b) of this section.

(4) **"Household income" means all income received by the claimant and, if married, all income received by the claimant's spouse, in a calendar year.**  
(Emphasis added.)

Idaho Code § 63-701 uses definitions to describe eligibility and income requirements for an applicant to qualify for the property tax reduction benefit. These definitions are not the same definitions used in other sections of the Idaho Code or even in the common dictionary. However, the definitions are very specific. The law must be followed as written. If the law is socially or economically unsound, the power to correct it is legislative, not within the powers of the Tax Commission. John Hancock Mutual Life Insurance Co. v. Neill, 79 Idaho 385, 319 P.2d 195 (1957).

In the present case, the petitioner filed a claim. She is the claimant. The household is defined as the claimant and the claimant's spouse. Household income is defined as the income received by the claimant and, if the claimant is married, the claimant's spouse. The fact that the petitioner and her husband lived apart does not change the requirement to include all income received by both spouses when considering eligibility for the benefit. When the petitioner's spouse's income is included, the petitioner's total income for the purpose of the property tax reduction benefit exceeds the \$28,000 maximum income allowed for a minimum 2011 property tax reduction benefit. The petitioner must be denied the benefit.

THEREFORE, the decision of the Commission staff to deny the property tax reduction benefit for taxable year 2011 is AFFIRMED.

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

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

IDAHO STATE TAX COMMISSION

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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.