

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

In the Matter of the Protest of )  
 ) DOCKET NO. 24963  
[Redacted], )  
 )  
 )  
Petitioner. ) DECISION  
 )  
\_\_\_\_\_ )

[Redacted] (Petitioner) protested a Notice of Deficiency Determination adjusting a property tax reduction benefit for taxable year 2010 issued by the Property Tax Reduction Coordinator (Coordinator) of the Idaho State Tax Commission. Petitioner disagreed with the disallowance of the property tax reduction benefit. The Tax Commission reviewed the file and hereby issues its decision.

**BACKGROUND**

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 amount of property tax reduction is limited by the household income of the applicant.

Petitioner filed an application for a property tax reduction benefit [Redacted]The application was approved, and Petitioner received a benefit in the form of the payment of a portion of the property tax on her homestead for taxable year 2010.

Idaho Code sections 63-707 and 63-708 provide for an audit of all claims and recovery of any benefit that was paid in error. During the review of Petitioner’s application, Coordinator found Petitioner did not report all the household income received during taxable year 2009. Coordinator corrected Petitioner’s household income to include the omitted income which

resulted in Petitioner's net household income exceeding the maximum income limit to receive a benefit.

Coordinator sent Petitioner a Notice of Deficiency Determination for the property tax reduction benefit she received plus interest. Petitioner protested the determination. Petitioner stated she did not receive all the additional household income claimed by Coordinator. Petitioner stated the Form 1099-MISC from [Redacted] was an error. Petitioner stated she received that income in 2006, not 2009. Coordinator acknowledged Petitioner's protest and referred the matter for administrative review.

The Tax Commission reviewed the matter and sent Petitioner a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. Petitioner contacted the Tax Commission and said she was working with [Redacted] [Redacted] in regards to the Form 1099 from [Redacted]. Petitioner stated she would provide information from [Redacted] when the matter was settled with [Redacted].

Petitioner provided information from [Redacted] as well as a statement from [Redacted]. The documentation substantiated that Petitioner did not receive any income from [Redacted] in 2009. Petitioner also stated she did receive distributions from her ex-husband's retirement accounts.

## LAW AND ANALYSIS

Income for property tax reduction benefit purposes is defined in Idaho Code section 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.)

Therefore, income starts with [Redacted] adjusted gross income and, thereafter, certain additions and deductions are made. Generally, [Redacted] adjusted gross income is taken directly from the Petitioner's [Redacted] income tax return. However, in this case a [Redacted] income tax return was not provided.

Petitioner's application reported only the income she received from social security (\$6,945). Petitioner did not include the income she received from court ordered distributions of her ex-husband's retirement accounts with [Redacted]. The total distribution Petitioner received from the retirement accounts was \$26,359.

The Tax Commission agrees Petitioner did not receive the income reported on Form 1099 from [Redacted] and, therefore, excludes that amount from Petitioner's household income. Nevertheless, Petitioner's total household income for 2009 was \$33,304, well in excess of the maximum allowed income of \$28,000. And, since Petitioner provided no qualified offset expenses to reduce her total household income, Petitioner's property tax reduction benefit is determined from her total household income of \$33,304. As a result, Petitioner is not allowed a property tax reduction benefit.

### **CONCLUSION**

Petitioner's 2009 income for the purpose of the property tax reduction benefit exceeded the \$28,000 maximum income allowed for a 2010 property tax reduction benefit. Petitioner is not entitled to a reduction in her property tax.

THEREFORE, the Notice of Deficiency Determination dated April 23, 2012, and directed to [Redacted] is AFFIRMED.

IT IS ORDERED that the Petitioner repay the following 2010 property tax reduction benefit plus interest.

| <u>BENEFIT</u> | <u>INTEREST</u> | <u>TOTAL</u> |
|----------------|-----------------|--------------|
| \$322.51       | \$25.80         | \$348.31     |

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 \_\_\_\_\_ 2013.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2013, 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.  
  
\_\_\_\_\_