

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

In the Matter of the Protest of )  
 ) DOCKET NO. 25190  
[Redacted], )  
 )  
 )  
 ) Petitioner. ) DECISION  
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\_\_\_\_\_ )

[Redacted] (Petitioner) protested the Intent to Deny Property Tax Reduction Benefit for taxable year 2012 issued by the Property Tax Reduction Coordinator (Coordinator) of the Idaho State Tax Commission. Petitioner disagreed that he, as a life estate designee, was not a beneficiary of the trust and thereby an owner of the homestead. 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 accepted by the County and sent to the Tax Commission for approval. The Tax Commission reviewed Petitioner’s application and determined Petitioner did not meet the requirements of a “claimant” as defined in Idaho Code section 63-701. The Tax Commission sent Petitioner an Intent to Deny Property Tax Reduction Benefit letter, which Petitioner protested.

Petitioner stated he was entitled to the property tax reduction benefit because he was the beneficiary of the trust through a granted life estate. Petitioner also stated he meets the requirements because he was recognized as disabled by the Social Security Administration as of December 2007. 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 Intent to Deny Property Tax Reduction Benefit. Petitioner responded with a letter stating the steps he took with the County to get the application accepted by the County. Petitioner also provided copies of Tax Commission decisions all citing Idaho Code section 63-701 highlighting the definitions of "claimant" and "owner." In addition, Petitioner pointed to the fact he was determined disabled by the Social Security Administration retroactive to December 1, 2007. Petitioner did not request an informal hearing as he felt all the information had been submitted.

### **LAW AND ANALYSIS**

Idaho Code, Title 63, Chapter 7 provides for property tax relief on a homestead of certain qualifying owners of the homestead. Idaho Code section 63-701(1) defines a claimant as,

[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:

- (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.

Idaho Code section 63-701(7) defines an owner, in pertinent part, as,

[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; or

(b) Is a partner of a limited partnership, member of a limited liability company or shareholder of a corporation if such entity holds title in fee simple or holds a certificate of motor vehicle title and if the person holds at least a five percent (5%) ownership in such entity, as determined by the county assessor; or

(c) Has retained or been granted a life estate. . .

The homestead for which property tax relief is sought is owned by the [Redacted] (Trust).

The grantor, trustee, and beneficiary of Trust are the same individual, [Redacted]. On November 24, 2010, Trust was amended for the purpose of changing the dispositive provision of Trust. Included in the change was a life estate to grantor's husband, Petitioner, upon the death of [Redacted], beneficiary, and the termination of Trust. Petitioner argues this life estate puts him in the place of an owner and therefore a claimant for the property tax reduction benefit.

The Tax Commission does not agree. If the owner of a homestead is a trust, the claimant must be a beneficiary of the trust. In this case, the beneficiary of Trust is [Redacted]. Petitioner

has no interest in the homestead until the death of [Redacted]. At that time, if Petitioner is still living and he fulfills certain requirements, Petitioner gets a life estate in the homestead. The life estate Petitioner is arguing has yet to be granted to Petitioner and will only be granted upon the death of [Redacted]. And, since Petitioner has yet to receive a life estate in the homestead, Petitioner cannot retain a life estate. Therefore, Petitioner is not an owner of the homestead, and is not an eligible claimant for the property tax reduction benefit.

### CONCLUSION

A claimant for the property tax reduction benefit must be an owner of the homestead for which property tax relief is sought. Petitioner is not considered an owner as defined in Idaho Code section 63-701(7). Therefore, Petitioner is not entitled to a reduction in the property tax on the homestead identified on the application.

THEREFORE, the Intent to Deny Property Tax Reduction Benefit dated August 6, 2012, and directed to [Redacted] is AFFIRMED.

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

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2013.

IDAHO STATE TAX COMMISSION

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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.

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