

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 25317
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

This case arises from a timely protest by [Redacted] (Petitioner) of a State Tax Commission (Commission) decision adjusting a property tax reduction benefit for taxable year 2012. 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 the property tax reduction depends on income--the greater the income, the smaller the benefit.

During a review of the application and corresponding documentation submitted by the petitioner for taxable year 2012, the staff became aware of income that had not been included in the petitioner’s application. The omitted income was interest and non-dividend distributions from [Redacted] and proceeds from broker transactions reported by [Redacted].

Because the inclusion of the omitted income increased the petitioner’s 2011 income beyond the maximum income allowed for an applicant to receive a minimum 2012 benefit, the staff sent the petitioner a letter advising her of the intent to deny her the benefit. The petitioner appealed, and her 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 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.)

Gross income is defined in Internal Revenue Code section 61:

General definition: Except as otherwise provided in this subtitle, gross income means all income from whatever source derived, including (but not limited to) the following items:

- (1) Compensation for services, including fees, commissions, fringe benefits, and similar items;
- (2) Gross income derived from business;
- (3) Gains derived from dealings in property;
- (4) Interest;
- (5) Rents;
- (6) Royalties;
- (7) Dividends;
- (8) Alimony and separate maintenance payments;
- (9) Annuities;
- (10) Income from life insurance and endowment contracts;
- (11) Pensions;
- (12) Income from discharge of indebtedness;
- (13) Distributive share of partnership gross income;
- (14) Income in respect of a decedent; and
- (15) Income from an interest in an estate or trust.

The calculation of income for the property tax reduction benefit starts with federal adjusted gross income or the equivalent thereof if the petitioner is not required to file a federal return, and thereafter, makes certain additions and deductions. The nontaxable portion of pensions/annuities is specifically required to be included in income to determine the benefit amount a qualified applicant is to receive. The only exceptions are if the annuities are determined to be qualified as “return of principal paid by the recipient of an annuity” or “rollovers as provided in section 402 or 403 of the Internal Revenue Code.”

The property tax reduction benefit is not federal or state income tax – it is payment of property tax based on certain qualifying factors including income.

In the present case, the petitioner’s 2012 application included social security income of \$22,349 and \$31 in interest income. However, during the review process, the Commission

discovered, according to the tax reporting statement prepared by [Redacted] on behalf of the petitioner, that she received gross proceeds of \$45,613 related to stock transactions. The petitioner did not file a [Redacted] tax return and provided no documentation to show if these sales resulted in a gain or loss.

When the \$45,614 of capital gain income, the \$759 of unreported interest income and \$779 of unreported dividend income is included in the 2012 application and allowable medical expenses are deducted, the petitioner's net income for property tax reduction benefit purposes exceeds the \$28,000 maximum income allowed to receive a minimum 2012 property tax reduction benefit. The petitioner must be denied the benefit.

THEREFORE, the decision of the State Tax Commission staff to deny the property tax reduction benefit is AFFIRMED and MADE FINAL.

An explanation of the taxpayer'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.
