

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

In the Matter of the Protest of )  
[Redacted], ) DOCKET NO. 25684  
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 )  
Petitioner. ) DECISION  
 )  
\_\_\_\_\_ )

[Redacted](petitioner) filed an application for a property tax reduction benefit [Redacted]. The application was approved, and the petitioner received a benefit for payment of a portion of the property tax on her homestead.

The State Tax Commission (Commission) staff issued a Notice of Deficiency Determination (NODD) adjusting the petitioner’s 2011 property tax reduction benefit. The decision was based on a review of the documents available to the Commission. The NODD was issued March 11, 2013, and the petitioner was asked to repay the benefit received, plus interest. A timely protest was received on April 24, 2013, by the Commission.

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 property tax on the dwelling the applicant owns and occupies. The payment is funded by state sales tax. The amount of property tax reduction depends on income—as income increases, the benefit is reduced. Claimants with net household income over \$28,000 do not receive a benefit.

Idaho Code §§ 63-707 and 63-708 provide for an audit of all claims and recovery of benefits that have been paid in error. During the review of the petitioner’s application, the Commission staff discovered a payment from the [Redacted] that was not included in the application as income. The petitioner made a claim for [Redacted] disability benefits

approximately three years ago. The claim was approved, and the petitioner was given a lump sum payment retroactive to the date of the original claim.

The petitioner protested the deficiency, stating in her appeal letter that she never received any [Redacted] benefits. The petitioner explained that her insurance company seized the [Redacted] payments as reimbursement for its payments to her while she waited for approval of her disability claim. The petitioner asserts that she received no benefit of the [Redacted] benefit payments. However, she received disability payments from her insurance company, which she did not qualify for, while she waited for the determination from [Redacted] that she qualified for [Redacted] disability benefits. The petitioner's file was transferred to the Legal/Tax Policy Division for administrative review. The Tax Policy Specialist sent the petitioner a letter advising her of her appeal rights along with the definition of income for purposes of the property tax reduction benefit. The petitioner did not respond.

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.)

In the present case, the petitioner received a combined social security and retirement income in the amount of \$37,220. The petitioner's 2010 income for the purpose of the property tax reduction benefit exceeds the \$28,000 maximum income allowed for a 2011 property tax reduction benefit. As a result, the petitioner must be denied the benefit.

THEREFORE, the Notice of Deficiency Determination dated March 11, 2013, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED that Petitioner repay the following tax benefits and interest:

<u>YEAR</u>	<u>BENEFIT TO REPAY</u>	<u>INTEREST</u>	<u>TOTAL DUE</u>
2011	\$1,120.00	\$56.95	\$1,176.95

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.  
  
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