

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 25772
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

This case arises from a timely protest of a State Tax Commission (Commission) staff decision to deny the property tax reduction benefit for 2013. This matter was submitted for decision based on the documents in the file. The Commission has reviewed the file and makes its decision thereon.

[Redacted] (petitioner) filed a property tax reduction benefit application on April 1, 2013. Idaho Code § 63-707(5) provides for the Commission to review applications petitioners submit to their county assessors. When the staff examined the petitioner’s application and the accompanying income tax return, it appeared the petitioner used the property entirely for business purposes.

The staff sent a letter to the petitioner advising her of the intent to deny her the 2013 benefit. She responded by sending a letter appealing that determination. The petitioner’s file was transferred to the Legal/Tax Policy Division for administrative review.

Idaho Code § 63-701 uses definitions to describe the conditions that must exist for an applicant to qualify to receive the property tax reduction benefit. The Code states in pertinent part:

(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.

...

(8) (a) "Primary dwelling place" means the claimant's dwelling place on January 1 or before April 15 of the year for which the claim is made. The primary dwelling place is the single place where a claimant has his true, fixed and permanent home and principal establishment, and to which whenever the individual is absent he has the intention of returning. A claimant must establish the dwelling to which the claim relates to be his primary dwelling place by clear and convincing evidence or by establishing that the dwelling is where the claimant resided on January 1 or before April 15 and:

- (i) At least six (6) months during the prior year; or
- (ii) The majority of the time the claimant owned the dwelling if owned by the claimant less than one (1) year; or
- (iii) The majority of the time after the claimant first occupied the dwelling if occupied by the claimant for less than one (1) year. The county assessor may require written or other proof of the foregoing in such form as the county assessor may determine. (Emphasis added.)

The application for a property tax reduction benefit asks claimants several questions regarding ownership and use of the property. One of questions relates to the business or commercial use of the property. The question reads, "If you used any portion of this property for business or commercial use in 2012, list the percent used for business or commercial use (See instructions). The instructions for this line state, "Calculate and list the percentage of your property used for business or commercial purposes. If you filed federal form 8829, this figure must agree with the percentage you reported. Attach a copy of form 8829 to this application." The petitioner's application listed 56 percent as the portion of the property used for business. However, the Form 8829 included with her [Redacted] return, reported 100 percent business use of the property. Property tax reduction benefits cannot be applied to business property.

THEREFORE, the decision of the Commission staff to deny the property tax reduction benefit for 2013 is hereby APPROVED and MADE FINAL.

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.