

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
[Redacted],) DOCKET NO. 25886
)
)
Petitioners.) DECISION
)
_____)

This case arises from a timely protest of a State Tax Commission (Commission) decision denying a property tax reduction benefit for taxable year 2013. The Commission has reviewed the file and makes its decision.

[Redacted] and [Redacted] (claimants) filed an application for a property tax reduction benefit [Redacted]

An Intent to Deny Property Tax Reduction Benefit letter was sent July 30, 2013. The letter advised the claimants that their income total for property tax reduction benefit purposes would be increased to include capital gains and income from a debt cancellation. The claimants protested the intended action that would result in a denial of a property tax reduction benefit. The protest was received by the Commission on August 12, 2013. The claimants’ file was transferred to the Legal/Tax Policy Division for administrative review.

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, funded by state sales tax, of all, or a portion, of the claimant’s property tax on the dwelling they own and occupy. The amount of property tax reduction depends on income—the greater the income, the smaller the benefit. Claimants with net household income over \$28,000 do not receive a benefit.

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.
- (Emphasis added.)

The claimants reported social security income of \$12,131 and \$6,031 for the husband and wife, respectively. A capital loss of \$85,536 and medical expenses of \$6,447 were subtracted from the social security income for a loss of \$73,821, which was reported as net household income. The scheduled benefit for the reported net household loss was \$1,320.

To support the capital loss on the application, the claimants provided a self-prepared 2012 Form 1040 with attached Schedule D, showing long term capital losses, and Form 8949, showing what was reported on a 1099-B as basis for long term transactions. Both the Schedule D and Form 8949 showed the proceeds from the sale as \$33,821, minus the basis of \$119,357, for a net loss on the rental property of \$85,536. The claimants provided the following documents in response to the Hearing Rights Letter: a “Buyers/Borrowers Estimated Closing Statement” dated August 19, 2002, with a purchase price of \$95,071; a “Seller’s Estimated

Settlement Statement” from [Redacted] dated November 2, 2012, with a sales price of \$125,500; and a “Record of Asset Value and Depreciation Reported to [Redacted]” form, prepared by the claimants, with a total asset value of \$119,357.

The issues are whether the claimants correctly completed the application and whether the claimants’ income qualifies for a property tax reduction benefit based on a correctly completed application.

The commission staff adjusted the application as follows: the social security income was adjusted based on the social security benefit statements; capital gains from the sale of the rental property was adjusted using the basis reported on the claimants’ Schedule D; and the debt cancellation amount was added to income.

The claimants did not include nontaxable social security income as part of the reported social security income. Taxable and nontaxable social security incomes are included when calculating total income for the property tax reduction benefit. As a result, social security income was increased by \$300 for each claimant from \$12,131 and \$6,035 to \$12,431 and \$6,335, respectively.

The remaining items are related. The asset value form appears to be incorrect. The sales price (cost of rental) is incorrect. The claimants are not using a standard straight-line depreciation. If an alternate depreciation method was elected, a copy of the election form provided to the [Redacted] should have been included with the asset value form. The remainder of the items on the asset value form are not normally included to change cost basis, and the claimants have not provided an explanation for the making the change, either.

The commission staff determined capital gain using incomplete information. It was based on the Schedule D. Because the basis of the property calculated on the asset value form is

incorrect, the capital gain adjustment is withdrawn. The claimants' rental property was a short sale, with a debt cancellation given to the claimants. The capital gain on the property is disregarded in favor of the debt cancellation income of \$33,821, reported on the 1099-C issued by [Redacted] to the claimants. The claimants argued that the debt cancellation is not income since they did not receive any money. The [Redacted] recognizes a "discharge of indebtedness" as income.

According to the income rules of the property tax reduction benefit program, the debt cancellation amount is included with the corrected social security income for a total of \$52,587. Medical expenses of \$6,447 were subtracted and the net household income was increased to a total of \$46,140.

The result is a net household income for property tax reduction benefit purposes which exceeds the maximum allowable income of \$28,000. As a result, the claimants are denied a property tax reduction benefit for 2013.

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

An explanation of the claimants' right to appeal this decision is enclosed.

DATED this _____ day of _____ 2014.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2014, 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.
