

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
)
 [Redacted],) DOCKET NO. 38902
)
)
 Petitioner.) DECISION
)
 _____)

[Redacted]

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 applicant’s property tax on the dwelling she owns and occupies. The amount of property tax reduction depends on income—the greater the income, the smaller the benefit.

[Redacted] (claimant) filed an application for a property tax reduction benefit [Redacted]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 claimant’s application and records available to the Commission, the staff discovered income that was not included. The omitted income was pension income for her spouse reported on a 1099-R. A Notice of Deficiency Determination (NODD) was issued April 4, 2014, proposing repayment of a property tax reduction benefit received, plus interest, of \$407 for taxable year 2012. [Redacted]The claimant protested the deficiency. In the protest, the claimant stated her spouse did not live with her and his income should not be included when determining her benefit. During the informal hearing, the claimant reported that she was not married to the spouse reported on the application. He was a friend that drove her places when she was not able to, because her car needed repairs. When the tax policy specialist asked why she included the spouse on Form 24, Idaho Grocery Credit

Refund, and about the inclusion of the spouse's income on the benefit application, the claimant reported that the forms were incorrectly completed by a person other than herself. She signed them assuming that the person that completed the form knew what they were doing.

Pertinent Law

Section 63-701, Idaho Code, uses definitions to describe eligibility and income requirements for a claimant to qualify for the property tax reduction benefit. Section 63-701, Idaho Code, states in pertinent part:

63-701. Definitions. As used in this chapter:

(1) **“Claimant” means 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 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.

(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. It may consist of a part of a multidwelling or multipurpose building and part of the land upon which it is built. “Homestead” does not include personal property such as furniture, furnishings or appliances, but a manufactured home may be a homestead

- (3) **“Household” means the claimant and the claimant’s spouse.** The term does not include bona fide lessees, tenants, or roomers and boarders on contract. “Household” includes persons described in subsection (8)(b) of this section.
- (4) **“Household income” means all income received by the claimant and, if married, all income received by the claimant’s spouse, in a calendar year.** (Emphasis added.)

Analysis

In the present case, the person filing the claim is the claimant. The household is defined as the claimant and the claimant’s spouse. Household income is defined as the income received by the claimant and, if the claimant is married, the claimant’s spouse. The requirement to include all income received by both spouses when considering eligibility for the benefit does not change even when the spouses live apart.

The claimant has filed Form 24, Idaho Grocery Credit Refund claims, three of the last four years with the same spouse that is listed on the benefit application. The claimant has not provided documentation to support her assertion that she was not married. Therefore, based on the information available, all of the spouse’s income must be included to determine the claimant’s household income for the property tax reduction benefit.

The claimant reported Social Security income for her and her spouse of \$8,400 and \$16,020, respectively, for a total of \$24,420. No medical expenses were claimed. When the omitted income from the spouse’s pension of \$6,426 is included, total income is \$33,159.

The claimant’s household income for the purpose of the property tax reduction benefit exceeds the \$28,000, maximum allowed for a minimum 2012 property tax reduction benefit. The claimant must be denied the benefit.

IT IS ORDERED that the claimant repay the following 2012 property tax reduction benefit plus interest.

<u>BENEFIT</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$390	\$17	\$407

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the claimant's 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.
