BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of [Redacted], Petitioner.	))))))	DOCKET NO. 38930 DECISION

This case arises from a timely protest of a State Tax Commission staff decision to change the property tax reduction benefit for 2014. This matter was submitted for a decision based on the documents in the file. The State Tax Commission has reviewed the file and makes its decision.

[Redacted] (petitioner) filed a 2014 property tax reduction benefit application on January 24, 2014. The assessor's office forwarded the application to the Commission for review and processing. During review of that application, the staff found that the 1099-R distributions were correctly reported as income, however, the distributions were from an employer-provided pension or retirement plan and were not eligible for the return of principal deduction.

The Commission staff sent the petitioner a letter advising her that the income total for the purpose of the property tax reduction benefit was going to be increased to exclude the return of principal deduction. The petitioner protested the intended action that would result in a $170 reduction in the amount of her benefit. Her 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. The petitioner responded and requested an informal conference. During the call to set up the conference, the petitioner and tax policy specialist discussed the retirement income in question. The petitioner emailed documentation regarding the retirement distributions which was reviewed. The distributions were found to be taxable and an email was sent advising the petitioner. The petitioner called to discuss the prior email and subsequently emailed certain pages of her retirement contracts. The documentation was reviewed and the distributions were determined to be taxable. An email was sent to the petitioner advising her that amounts contributed to an employer-provided pension plan are not available for the return of principal deduction. The petitioner responded by email that she would like time to research the issue. The tax policy specialist emailed the petitioner asking if she would like to schedule a hearing. No further response was received from the petitioner.

All property within the jurisdiction of this state is subject to property tax. A property tax reduction benefit program is available to certain qualifying individuals throughout the state. The benefit is in the form of payment (either total or partial) 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 property tax reduction depends on income--the greater the income, the smaller the benefit. However, income is defined differently for the property tax reduction benefit program than it is described in the income tax code. 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.)

Income is further defined in Property Tax Administrative Rule 700.03:

(3) All income defined in Section 63-701(5), Idaho Code, that is received by either spouse is included in household income even if one spouse lives in a medical care facility or otherwise lives outside the home except as provided in Rule 709 of these rules. For the purposes of excluding from claimant's income any return of principal paid by the recipient of an annuity, follow these guidelines.

(a) An annuity means a contract sold by an insurance company to the claimant or claimant's spouse and designed to provide payments to the holder at specified equally spaced intervals or as a lump sum payment with the following conditions:
(i) **The annuity must not be part of any pension plan available to an employee**;
(ii) No tax preference is given to the money spent to purchase the annuity (purchase payments must not reduce the buyer's taxable income);

(iii) **The buyer of the annuity must have purchased the annuity voluntary and not as a condition of employment or participation in an employer provided pension system**; and
(iv) Earnings from investments in the annuity must be tax-deferred prior to withdrawal.

(b) **Annuities do not include** KEOGH plans, Individual Retirement Accounts (IRAs), **employer provided pensions**, and similar financial instruments. Life insurance premiums shall not be treated as the principal of an annuity.

(c) The recipient of the annuity payment(s), the claimant or claimant's spouse, has the burden of proving the income is the principal paid by the recipient. Such proof includes copies of the holder's annuity contract and any other documentation clearly indicating the conditions listed in Subparagraphs 700.03.a.i. through 700.03.a.iv. of this Rule are met. IRS form 1099 does not provide sufficient proof. (Emphasis added.)

The calculation of income starts with [Redacted] adjusted gross income and, thereafter, makes certain additions and deductions. Pension/retirement plan distributions are required to be included in income to determine the benefit amount a qualified applicant is to receive and may not, in certain cases, be eligible for the return of principal deduction.

In the present matter, the petitioner reported the pension/retirement plan distributions, but then deducted them as return of principal. Examination of the documentation provided by the petitioner indicates that the distributions are not return of principal, but are, instead, part of an employer-provided pension plan. As such, the amounts are not eligible for the return of principal deduction. The petitioner reported [Redacted] adjusted gross income of $14,642. When Social Security benefits of $17,196 are added and $6,218 of out-of-pocket medical expenses are subtracted, the petitioner's 2013 total net income is $25,620.

The petitioner's total net income for the purpose of the property tax reduction benefit is $25,620. The petitioner qualifies to receive a property tax reduction benefit of an amount not to exceed $350.

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

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

DATED this ________ day of ___________________ 2014.

IDAHO STATE TAX COMMISSION

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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.

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