

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 38997
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

This case arises from a timely protest of a State Tax Commission staff decision adjusting the property tax reduction benefit for taxable year 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 property tax reduction benefit application on April 12, 2014. The property tax reduction benefit is described in Idaho Code § 63-701. In order to qualify as a claimant for the property tax reduction benefit, an applicant must meet one of the conditions described in Idaho Code § 63-701(1):

- 63-701. DEFINITIONS. As used in this chapter:
- (1) "Claimant" means a person who 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 of the year or before April 15 in which the claim was filed a claimant must be an owner of a homestead and 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 veterans administration; 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.

Idaho Code § 63-701 uses definitions to describe eligibility and income requirements for an applicant to qualify for the property tax reduction benefit. These definitions are not the same definitions used in other sections of the Idaho Code or even in the common dictionary, however, the definitions are very specific. The law must be followed as written. If the law is socially or economically unsound, the power to correct it is legislative, not within the powers of the Tax Commission. John Hancock Mutual Life Insurance Co. v. Neill, 79 Idaho 385, 319 P.2d 195 (1957).

The staff routinely audits the applications that have been submitted to the county where the petitioners live. During the review process, the staff contacted the Social Security Administration (SSA) to verify the petitioner's status as disabled. Because the SSA had no record of the petitioner's disability recognition and he did not meet any of the other status requirements of Idaho Code § 63-701(1), the staff sent the petitioner a letter advising him of the intent to deny him the 2014 property tax reduction benefit.

In response, the petitioner sent a letter stating that he has a condition that is recognized by the Social Security Administration as disabling, but he does not receive social security income because he was employed by the [Redacted] Fire Protection District and paid into the Public Employees Retirement System and not Social Security.

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 him of his appeal rights.

The petitioner mailed a request for a telephone conference, which was scheduled for November 6, 2014. The petitioner did not call in for the telephone conference, but left a voice

mail stating he was in the [Redacted]. He requested the conference be rescheduled and the hearing was held on November 10, 2014. The petitioner has not provided any documentation verifying that he is recognized as disabled by the SSA and does not meet any of the other status requirements. Unfortunately, the petitioner does not qualify as a claimant for the 2014 property tax reduction benefit. He must be denied the benefit.

THEREFORE, the Intent to Deny Property Tax Reduction Benefits letter dated August 4, 2014, 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

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.
