

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 0-946-368-512
<b>[Redacted]</b> ,	)	
	)	
Petitioner.	)	DECISION
_____	)	

This case arises from a timely protest of a State Tax Commission (Commission) decision to deny a property tax reduction benefit for taxable years 2013 and 2014. The Commission has reviewed the file and makes its decision based on the information in the file.

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 the claimant owns and occupies. The amount of property tax reduction depends on income—the greater the income, the smaller the benefit.

**[Redacted]** (claimant) filed applications for the property tax reduction benefit with Canyon County for taxable years 2013 and 2014. Idaho Code §§ 63-707(5) and 63-707(6) allows the Commission to review claims and reduce or deny the benefit claimed, if required. During the review of the claimant’s applications and records available to the Commission, the staff discovered income that was not included. The claimant omitted information on both the 2013 and 2014 applications. A Notice of Deficiency Determination (NODD) was issued requesting repayment of benefits issued for taxable years 2013 and 2014, plus interest for a total of \$1,250.86 on March 4, 2016.

The claimant filed a timely protest of the NODD. In the protest, the claimant stated that according to the county employees that helped him complete the application, he was entitled to the property tax reduction benefit because the Veteran’s Administration has recognized he has a

100 percent service connected disability. The claimant stated in his appeal letter he did not know or understand the requirements of the property tax reduction benefit. Although he signed the statement on each application that “the information I have provided here is true, correct, and complete.” He added that if the property tax reduction benefit applications were completed incorrectly, it was through his ignorance and the negligence of the county employees that assisted him.

The file was referred to the Legal/Tax Policy Division for administrative review. The claimant was sent a letter explaining the methods available for redetermining a protested NODD. The claimant did not request a hearing. The Commission received two packets with additional information about the 2013 and 2014 property tax reduction benefits. One packet contained a note from [Redacted] County dated January 8, 2013, indicating his application could not be processed unless he provided a “VA Disability Award letter with percentage.” Both packets contained a copy of his application and a letter from the Department of Veterans Affairs dated March 1, 2012, awarding the claimant a 100 percent disability.

The property tax reduction benefit is not a federal or state income tax. Any person qualifying as a claimant may apply for a property reduction benefit—although no one is required to—and only certain claimants are eligible to receive a benefit. The property tax may be reduced for certain individuals who apply for the property tax reduction benefit. The benefit is based on three factors: status, residency, and income. The claimant must have a status that qualifies him as a claimant. The taxpayer must also own and reside in a qualifying homestead as his primary residence. Idaho Code §§ 63-701(1) and 63-701(2) defines a claimant and homestead, respectively, as:

**(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 first filed a claim 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, if a person is not within the purview of, and is therefore not recognized as disabled by, any other entity listed in this paragraph, then by the public employee retirement system or public employee disability plan in which the person participates that may be of any state, local unit of government or other jurisdiction in the United States of America; 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. **(Emphasis added.)**

In the present case, the claimant is allowed to file an application for a property tax reduction benefit because his status as a person with a Veteran's service connected disability over 10 percent. The claimant also meets the residency requirements.

Finally, the taxpayer must meet certain income limitations. The maximum income which qualifies for a minimum benefit for 2013 is no more than \$28,000 and for 2014 is no more than \$28,700. 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.)**

The calculation of income starts with the federal adjusted gross income and, thereafter, makes certain additions and deductions. The 2013 application begins with the 2012 federal adjusted gross income or its equivalent if the claimant is not required to file a federal income tax return. The 2014 application begins with the 2013 federal adjusted gross income or its equivalent.

For 2012, the claimant's federal adjusted gross income was \$30,558. When the nontaxable Social Security income of \$2,702 is included, his net income totals \$33,260. He does not claim any medical expenses. Also, because his VA disability income is nontaxable for federal income tax purposes it is not included in the federal adjusted gross income. That disability income is also not included in the income calculation for purposes of the property tax reduction benefit. The claimant's net household income for 2012 is \$33,260. The claimant's 2012 net household income for the purpose of the property reduction benefit exceeds the \$28,000, maximum allowed for a minimum 2013 property tax reduction benefit.

For 2013, the claimant's federal adjusted gross income was \$61,396. When the nontaxable Social Security income of \$2,476 is included, his net income totals \$63,872. After medical expenses of \$999 are deducted, the claimant's net household income for 2013 is \$62,873. The claimant's 2013 net household income for the purpose of the property reduction benefit exceeds the \$28,700 maximum allowed for a minimum 2014 property tax reduction benefit. The claimant must be denied the benefit.

THEREFORE, the Notice of Deficiency Determinations dated March 4, 2016, for taxable years 2013 and 2014 are hereby AFFIRMED and MADE FINAL.

IT IS ORDERED that the claimant re-pay the following tax and interest:

<u>YEAR</u>	<u>AMOUNT DUE</u>	<u>INTEREST</u>	<u>TOTAL</u>
2013	\$527.32	\$49.46	\$576.78
2014	639.67	34.41	<u>674.08</u>
		TOTAL DUE	<u>\$1,250.86</u>

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 \_\_\_\_\_ 2016.

IDAHO STATE TAX COMMISSION

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COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2016, 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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