BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of	)	
	)	DOCKET NO. 1-257-476-096
[REDACTED],	)	
	)	
Petitioner.	)	DECISION
	)	

This case arises from a timely protest of a State Tax Commission staff's decision to change the property tax reduction benefit for 2015. 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 10, 2015. During review of that application and comparison of the information with State Tax Commission records, the staff identified several income discrepancies.

The 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 include the taxable portion of [Redacted] annuity and the gross amount of Social Security benefits received for both the petitioner and [Redacted] spouse. An adjustment was also made to increase the amount of medical expense deductions, and to remove the deduction for the return of principal of an annuity. The petitioner protested the intended action that would result in a denial of a property tax reduction benefit.

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. **<u>"Income" shall be that received in the calendar year immediately preceding the year in which a claim is filed.</u>** 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 petitioner in this case disagrees with the inclusion in income of $4,940, the taxable portion of [Redacted] annuity and/or pension from [Redacted], which was reported to [Redacted] on form 1099-R. However, the petitioner has not provided a corrected 1099-R or any other documentation to show the amount included was in error. The claimant also believes [Redacted] should be allowed to exclude from the calculation of household income, as a return of principal from an annuity, $50,054. In [Redacted] appeal letter the claimant references [Redacted], stating, "We did have an [Redacted] policy for a short time in 2014, but realized it was not a good deal and cancelled it in September of 2014. We did not apply for the circuit breaker in 2014 because we knew we had too much income. The money from that policy went to retire debt and purchase the new $50,000 annuity that I originally reported, which does not pay anything for 10 years."

The calculation of income for the purpose of the property tax reduction benefit starts with federal adjusted gross income, or the equivalent thereof, and thereafter, makes certain additions and deductions. The taxable portion of annuities is required to be included in federal adjusted gross income. For the purpose of the property tax reduction benefit, the nontaxable portion is also included in the calculation of income to determine the benefit amount a qualified applicant is to receive. The only exceptions are if the annuities are determined to be qualified as "return of principal paid by the recipient of an annuity" or "rollovers as provided in section 402 or 403 of the Internal Revenue Code."

In the present matter, the petitioner's spouse received form 1099-R from [Redacted] that showed a gross distribution of $95,403 and a taxable amount of $4,940. Based upon the petitioner's statements and the documentation [Redacted] provided, it appears petitioner surrendered one annuity and purchased another with a portion of the gross distribution. As discussed previously, the $4,940 must be included in the calculation of income for the purpose of the property tax reduction benefit as it would be included in federal adjusted gross income. The $50,054 the petitioner deducted as a return of principal is the amount the petitioner used to purchase another annuity. The petitioner has not provided any documentation to substantiate the $50,000 deduction as the return of principal.

The petitioner's application reported social security income of $19,320 and $16,164 respectively for [Redacted] and [Redacted] spouse, then deducted medical expenses of $6,282. When the gross amounts of social security benefits are included, $20,579 and $17,423, respectively, the deduction for allowable medical expenses increases to $8,800. When income of $4,940 from pensions, annuities, and retirement accounts is added and the deduction for the return of principal of an annuity is removed, the petitioner's 2015 total net income is $34,142.

The petitioner's 2014 income, for the purpose of the property tax reduction benefit, exceeds the $29,100 maximum income allowed for a minimum 2015 property tax reduction benefit. The petitioner must be denied the benefit.

WHEREFORE, 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 ___________________ 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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