

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 0-109-809-664
<b>[Redacted]</b>	)	
	)	
Petitioner.	)	DECISION
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This case arises from a timely protest of a State Tax Commission (Commission) decision adjusting a property tax reduction benefit for 2016. This matter was submitted for a decision based on the documents in the file. The Commission has reviewed the file and makes its decision.

All property within the jurisdiction of this state is subject to property tax. A property tax reduction benefit is available to certain qualifying individuals throughout the state. The benefit is in the form of payment of a portion or all of an applicant's property tax on the dwelling he/she owns and occupies. The payment is funded by the state sales tax.

**[Redacted]** (Petitioner) filed an application with **[Redacted]** County for a 2016 property tax reduction benefit on March 24, 2016. The **[Redacted]** County Assessor's office sent that application, together with other applications, to the Commission for review and processing.

Pursuant to Idaho Code § 63-707(5), Commission staff reviewed Petitioner's application and sent her a letter advising her of the intent to deny her a property tax reduction benefit for 2016, because her income exceeded the maximum amount of \$29,470 after the inclusion of a Social Security benefit not previously reported on her application. Petitioner responded with a letter appealing the determination. Her file was then forwarded for administrative review.

Income for purpose of the 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.

*Idaho Code § 63-701(5)*

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, 405, 319 P.2d 195, 206 (1957).

In this case Petitioner disagrees with the inclusion of \$24,269 in her income, the non-taxable payment of a Social Security benefit and a pension or annuity payment that belonged to her husband, who is now deceased. Household income is defined as the income received by Petitioner and, if Petitioner is married, the Petitioner's spouse. The fact Petitioner's husband is now deceased does not change the requirement to include all income received by both spouses when considering eligibility for the benefit. Petitioner did not include her spouse's income on her 2016 Property Tax Reduction Benefit application. Petitioner's total net household income of \$40,198 exceeds the maximum income amount to receive a minimum benefit. She must be denied the benefit for 2016.

THEREFORE, the decision of the Idaho State Tax Commission staff to deny the property tax reduction benefit for 2016 is APPROVED and MADE FINAL.

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

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2017.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2017, 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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