

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 0-368-527-360
[Redacted])	
)	
Petitioner.)	DECISION
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This case arises from your timely protest of a State Tax Commission (Commission) determination to deny you a property tax reduction benefit for 2017. The Commission reviewed the information in the file and this is our final decision. The Commission upholds the Intent to Deny Property Tax Reduction Benefit letter. This means you will not receive a benefit for 2017.

Background

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 of all or a portion of the applicant’s property tax on the dwelling he/she owns and occupies. State sales tax funds these payments. The amount of the property tax reduction depends on income—the greater the income, the smaller the benefit.

[Redacted] (Petitioner) filed a 2017 property tax reduction application on February 17, 2017. During the review of the application, the staff noted Petitioner had checked a box identifying himself as married. However, Petitioner did not list any income for his spouse in the application. Without income information for Petitioner’s spouse, the application was incomplete. The staff sent Petitioner a letter advising him of their intent to deny him the property tax reduction benefit. Petitioner protested the intended action and his file was transferred to the Appeals unit for administrative review.

Law and Analysis

Idaho Code § 63-701(5) defines income for property tax reduction benefit purposes. A complete copy is attached to the decision.

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).

In the present case, Petitioner protested the Commission's intended action stating that while his wife's name is on the title to the property, she has not lived at the Idaho address for over two years. Therefore, according to Petitioner, citing Idaho Code § 63-701(2), he is, the "owner" of the "homestead" for the purpose of the property tax reduction benefit and only his income can be used to determine the benefit. Petitioner further argues that the last paragraph of 63-701(5) is applicable to him. Those code sections are as follows:

2(c) Certain married individuals living apart

For purposes of this part, an individual shall be treated as not married at the close of the taxable year if such individual is so treated under the provisions of section 7703(b).

Internal Revenue Code (I.R.C.) § 7703 (b) states:

(b) Certain married individuals living apart

For purposes of those provisions of this title which refer to this subsection, if—

(1) an individual who is married (within the meaning of subsection (a)) and who files a separate return maintains as his home a household which constitutes for more than one-half of the taxable year the principal place of abode of a child (within the meaning of section 152(f)(1)) with respect to whom such individual is entitled

to a deduction for the taxable year under section 151 (or would be so entitled but for section 152(e)),

(2) such individual furnishes over one-half of the cost of maintaining such household during the taxable year, and

(3) during the last 6 months of the taxable year, such individual's spouse is not a member of such household, such individual shall not be considered as married.

Petitioner did file a separate tax return for taxable year 2016, more than likely furnished over one-half of the cost of maintaining the household and his spouse was not a member of the household during the last six months of that taxable year. However, Petitioner's home is not the principal place of abode of a child for whom he may claim as a dependent. Petitioner does not meet the requirements of I.R.C. § 7703(b); he is considered married.

Conclusion

Petitioner filed a claim. He is the claimant. The household is defined as the claimant and the claimant's spouse. Household income is defined as the income received by the claimant and, if the claimant is married, the claimant's spouse. The fact that Petitioner and his wife lived apart does not change the requirement to include all income received by both spouses when considering eligibility for the benefit. Without complete income information, Petitioner must be denied the property tax reduction benefit for 2017.

The decision of the State Tax Commission staff to deny the property tax reduction benefit for 2017 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.
