

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 1-225-256-960
<b>[Redacted]</b>	)	
	)	
Petitioner.	)	DECISION
<hr style="width: 45%; margin-left: 0;"/>	)	

This case arises from a timely protest of a State Tax Commission staff (staff) decision adjusting the property tax reduction benefit for taxable year 2016. This matter was submitted for decision based on the documents in the file. The State Tax Commission (Commission) has reviewed the file and makes its decision thereon.

**[Redacted]** (Petitioner) filed a property tax reduction benefit application with the <sup>[Redacted]</sup> County Assessor’s office on March 30, 2016. The assessor’s office sent that application, together with other applications, to the Commission for review and processing.

During review of Petitioner’s application and <sup>[Redacted]</sup> County records, the staff discovered ownership of the property was in the name of the <sup>[Redacted]</sup> Trust.

The property tax reduction benefit as described in Idaho Code § 63-701, in pertinent part:

**63-701. Definitions. As used in this chapter:**

(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:

(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....

(7) “Owner” means a person holding title in fee simple or holding a certificate of motor vehicle title (either of which may be subject to mortgage, deed of trust or other lien) or who has retained or been granted a life estate or who is a person entitled to file a claim under section 63-702, Idaho Code. “Owner” shall also include any person who:

(a) Is the beneficiary of a revocable or irrevocable trust which is the owner of such homestead and under which the claimant or the claimant's spouse has the primary right of occupancy of the homestead.

*Idaho Code § 63-701*

Idaho Code § 63-701 requires the subject property to be owner-occupied and used as the primary dwelling place of the claimant for the property tax reduction benefit. Because the recorded owner of the property was a trust, the staff sent Petitioner a letter informing him of Intent to Deny Property Tax Reduction Benefit as the [Redacted] Trust documentation provided did not indicate Petitioner was a beneficiary of the trust. Petitioner responded, stating, "The benefit denial was incorrect as I was the Grantor and was named as beneficiary after the trust document was formed. My name [Redacted] is listed on [Redacted] County court documents as a beneficiary." Petitioner included with his protest letter a copy of a Notice of Changes filed with the [Redacted] District Court of Idaho on April 21, 2016, which is presumably the court document referenced in his protest. The Notice of Changes, among other listed actions, states, [Redacted] resigned as trustee of [Redacted] Trust and appointed [Redacted] as trustee, who is also the trustor and beneficiary of [Redacted] Trust." The Commission staff reviewed the additional information, but concluded the matter was yet unresolved and forwarded Petitioner's file to the Appeals division for administrative review.

To qualify as a claimant for circuit breaker purposes, the applicant must be the owner of a homestead on January 1 of the year in which the claim was filed. The records show the owner of the subject property on January 1, 2016, was the [Redacted] Trust. For a claimant to qualify as the owner of a property held in trust, the claimant must be named as beneficiary of that trust. The [Redacted] Trust document provided does not list Petitioner as beneficiary, but it does contain a statement that the Grantor may add additional beneficiaries by written, notarized statement at any

time prior to the distribution of the trust. Based on that language, Petitioner would need to provide a written notarized statement from the Grantor naming him as a beneficiary of the [Redacted] Trust in order to qualify as a claimant. Petitioner has not provided a statement to that effect. Petitioner does not meet the ownership eligibility requirement for a property tax reduction benefit.

THEREFORE, the Intent to Deny Property Tax Reduction Benefit letter dated September 19, 2016, is hereby 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

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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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