

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
) DOCKET NO. 0-864-950-272
 [Redacted],)
)
)
) Petitioner.) DECISION
)
)
 _____)

On April 30, 2019, the staff of the Property Tax Division (Division) at the Idaho State Tax Commission (Tax Commission) issued a Notice of Deficiency Determination (Notice) to [Redacted] [Redacted] (Petitioner). The Notice was for repayment of Idaho Property Tax Reduction benefits for tax years 2016 and 2017, in the total amount of \$1,171.56.

On May 29, 2019, Petitioner filed a timely appeal and petition for redetermination of the Notice. The Division acknowledged Petitioner’s protest and referred the matter for administrative review. On July 23, 2019, an informal telephone hearing was held. After reviewing all the information, the Tax Commission hereby issues its decision to uphold the Notice.

BACKGROUND

The property tax reduction (circuit breaker) program reduces property taxes for qualified applicants. The benefit is in the form of payment of all or part 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. The amount of reduction is based on income from the previous calendar year. Idaho Code §§ 63707(5) and 63-707(6) allows the Commission to review claims and reduce or deny the benefit claimed, if required.

For income tax year 2015, Petitioner had \$13,775 in social security income and \$16,680 in gambling income. For tax year 2016, Petitioner had \$13,776 in social security income and \$3,925

in gambling income. Petitioner was not required, and did not file, federal income tax returns for the referenced tax years. Petitioner, a resident of [Redacted], Idaho, filed an application for property tax reduction for 2016 (income tax year 2015) and 2017 (income tax year 2016). In completing his applications for property tax reduction, Petitioner excluded his gambling income. The Division determined Petitioner was required to include his gambling income and issued a Notice.

PETITIONER'S POSITIONS

Petitioner made numerous arguments on why his gambling income should be excluded and/or his gambling losses should be deducted for determining his income for the property tax reduction benefit. The issues for decision are: (1) whether Petitioner is entitled to exclude gambling winnings from income on his applications and (2) whether Petitioner can deduct gambling losses on his applications.

RELEVANT TAX CODE AND ANALYSIS

Gross income is defined by Internal Revenue Code § 61 as all income from whatever source derived, including, but not limited to: income from gambling, lotteries, sweepstakes winnings, and card playing. This is so even if gambling income is exceeded by gambling losses. Income for property tax reduction benefit purposes is defined by Idaho Code § 63-701(5) as the sum of federal adjusted gross income as defined in the Internal Revenue Code (I.R.C.), as defined in Idaho Code 63-3004, plus specific additions to the extent not already included in federal adjusted gross income.

In this case, Petitioner had gambling income from the [Redacted], which was reported to Petitioner on Form W-2G, Certain Gambling Winnings. Petitioner's gambling winnings must be included in income. There is nothing in income tax or property tax laws that allows the gambling income to be excluded for purposes of the property tax reduction program.

Idaho Code § 63-701(5)(g) provides that if a property tax reduction claimant does not file a federal tax return the starting point for the calculation of income would be the equivalent of federal adjusted gross income. I.R.C. § 165(d) provides a taxpayer's gambling losses for the year are deductible to the extent of the taxpayers gambling gains for the year as an itemized deduction. Itemized deductions are calculated after adjusted gross income.

In this case, Petitioner did not file a federal tax return. Therefore, the starting point for the calculation of income would be the equivalent of the federal adjusted gross income. For tax year 2015, adjusted gross income would be the \$13,775 in social security income plus the \$16,680 in gambling income, for total income of \$30,455. For tax year 2016, adjusted income would be the \$13,776 in social security income plus the \$3,925 in gambling income, for total income of \$17,701.

As mentioned previously, gambling losses are deductible only if a taxpayer itemizes his/her deductions. On a federal income tax return, itemized deductions are subtracted after the calculation of federal adjusted gross income, the starting point for the calculation of income for property tax reduction benefit purposes. Therefore, even if Petitioner had filed a federal income tax return and a Schedule A, his federal adjusted gross income would remain the same.

CONCLUSION

In reaching our decision, the Tax Commission has considered all arguments present and, to the extent not discussed above, find them to be irrelevant and without merit. Petitioner had gambling income, which must be included in income for purposes of the property tax reduction benefit.

The Tax Commission is aware there is some potential this decision could cause a hardship to the property tax reduction applicant. The proper jurisdiction to handle such hardship situations falls with the county commissioners under Idaho Code § 63-711.

On appeal, a deficiency determination issued by the Tax Commission “is presumed to be correct, and the burden is on the taxpayer to show that the Commission’s decision is erroneous.” *Parker v. Idaho State Tax Comm’n*, 148 Idaho 842, 845, 230 P.3d 734, 737 (2010) (citing *Albertson’s Inc. v. State Dep’t of Revenue*, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984)). The Tax Commission requires the Petitioner to provide adequate evidence to establish that the amount asserted in the Notice is incorrect. Here, the Petitioner did not provide adequate evidence. As a result, the Tax Commission upholds the Notice.

THEREFORE, the Notice of Deficiency Determination dated April 30, 2019, is hereby APPROVED, in accordance with the provisions of this decision, and is AFFIRMED and MADE FINAL.

IT IS ORDERED that [Redacted] repay the following 2015 and 2016 property tax reduction benefits plus interest:

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2016	\$260	\$3	\$263
2017	900	9	<u>909</u>
			<u>\$1,172</u>

DEMAND for immediate payment of the foregoing amount is hereby made and given.

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

DATED this _____ day of _____ 2019.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2019,
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]
[Redacted]
[Redacted]

Receipt No.
