

Idaho Code section 63-701(5) defines “income” as the sum of federal adjusted gross income as defined in the Internal Revenue Code, as defined in Idaho Code section 63-3004, 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 26 U.S.C. 402 or 403, and excluding the nontaxable portion of a Roth individual retirement account distribution, as provided in 26 U.S.C. 408A;
- (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.

In this case, Petitioner has been married since 2003, but Petitioner and his spouse have been separated since 2016. They have maintained separate residences and finances since 2016.

Petitioner’s income is \$10,577. Petitioner’s spouse’s income is unknown. Petitioner states his wife will not provide him with copies of her 2018 tax return and medical records. The only thing the wife would release was a Form 8879, which indicates her federal adjusted gross income was \$79,945 and a statement that her medical expenses were \$65,636.

Petitioner makes two arguments: (1) he should not have to include his wife’s income on the application because they maintain separate residences and finances, and (2) even if he has to include his wife’s income he should still be entitled to the benefit because of her medical expenses.

The fact that Petitioner and his wife lived apart and maintained separate finances does not change the requirement to include all income received by both spouses when considering

eligibility for the benefit. 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).

The Form 8879 is not enough to verify spousal income for purposes of the property tax reduction benefit. The Form 8879 provides the federal adjusted gross income amount, which is the starting point for determining “income” for purposes of the property tax reduction benefit. In addition, Petitioner’s statement that his spouse had \$65,636 in medical expenses is not enough evidence to support the expenses were incurred, paid and qualifying expenses.

THEREFORE, the Notice of Intent to Deny Property Tax Reduction Benefit for 2019 is hereby APPROVED and MADE FINAL.

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

DATED this _____ day of _____ 2020.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2020 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:



Receipt No.
