BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of [Redacted] Petitioner.	))))))	DOCKET NO. 1-853-683-712 DECISION

On September 23, 2019, the staff of the Property Tax Division (Division) at the Idaho State Tax Commission (Tax Commission) notified [Redacted] (Petitioner) of its intent to deny property tax reduction benefits for tax year 2019. On October 17, 2019, Petitioner filed a timely appeal and petition for redetermination of the intent to deny property tax reduction benefits.

On November 29, 2019, the Tax Appeals Unit at the Tax Commission mailed a letter to Petitioner informing her she could request a hearing or submit additional documents. Petitioner did not respond. Therefore, based on the information available, the Tax Commission hereby issues its decision to uphold the intent to deny property tax reduction benefits.

According to the information available, Petitioner was a married woman but separated from her spouse. Petitioner's spouse allegedly did not live with her or provide her with any financial support. Petitioner submitted an application for property tax reduction benefits but did not include her spouse's income on the application. If Petitioner had included her spouse's income on the application, she would have been ineligible for benefits. The Division determined Petitioner was required to include her spouse's income on the application. Petitioner appealed asserting she should not have to include her spouse's income on the application.

Idaho Code section 63-701 states, 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 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:

(a) Not less than sixty-five (65) years old; or

(b) A child under the age of eighteen (18) years who is fatherless or motherless or who has been abandoned by any surviving parent or parents; or

(c) A widow or widower; or

(d) A disabled person who is recognized as disabled by the social security administration pursuant to title 42 of the United States Code, or by the railroad retirement board pursuant to title 45 of the United States Code, or by the office of management and budget pursuant to title 5 of the United States Code; or

(e) A disabled veteran of any war engaged in by the United States, whose disability is recognized as a service-connected disability of a degree of ten percent (10%) or more, or who has a pension for nonservice-connected disabilities, in accordance with laws and regulations administered by the United States department of veteran's affairs; or

(f) A person, as specified in 42 U.S.C. 1701, who was or is entitled to receive benefits because he is known to have been taken by a hostile force as a prisoner, hostage or otherwise; or

(g) Blind.

(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. It may consist of a part of a multidwelling or multipurpose building and part of the land upon which it is built. "Homestead" does not include personal property such as furniture, furnishings or appliances, but a manufactured home may be a homestead.

(3) "Household" means the claimant and the claimant's spouse. The term does not include bona fide lessees, tenants, or roomers and boarders on contract. "Household" includes persons described in subsection (8)(b) of this section.

(4) "Household income" means all income received by the claimant and, if married, all income received by the claimant's spouse, in a calendar year.

Idaho Code section 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

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the Tax Commission. *John Hancock Mutual Life Insurance Co. v. Neill*, 79 Idaho 385, 319 P.2d 195 (1957).

In the present case, Petitioner filed a claim. She 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 her husband live apart and file separate income tax returns, does not change the requirement to include all income received by both spouses when considering eligibility for the benefit.

The applicable statute in this case is clear. Regardless of Petitioner's living arrangements, she is married. Therefore, she must include her spouse's income to determine whether the property tax reduction benefit will be granted. The statute provides no exception to this requirement.

THEREFORE, the decision of the State Tax Commission staff to deny the property tax reduction benefit for 2019 is 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

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COMMISSIONER

[Redacted]

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:

[redacted]

Receipt No.

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