

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 0-497-484-800
,	)	
	)	
Petitioner.	)	DECISION
<hr style="width: 45%; margin-left: 0;"/>	)	

On May 19, 2022, the Property Tax Division (Property Tax) of the Idaho State Tax Commission (Tax Commission) issued a Notice of Deficiency Determination to (Petitioner). Petitioner objected to the Notice which requested repayment of a 2020 and 2021 Idaho Property Tax Reduction Benefit. The Tax Commission reviewed the case, and this is our final decision. We uphold the Notice for the following reasons.

**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. The state sales tax funds these payments.

An applicant must meet certain income, ownership, and status requirements to be eligible for a benefit. The issue for this decision is whether Petitioner meets the status requirement.

For both 2020 and 2021, Petitioner filed applications for a property tax reduction benefit with Ada County indicating by checking a box, that he is a widower.<sup>1</sup> Ada County sent the applications to the Tax Commission’s Property Tax unit for processing. Property Tax approved

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<sup>1</sup> The application lists \_\_\_\_\_ as the spouse and a March 6, 2014, date of death.

the applications and Petitioner received a benefit for payment of a portion of the property taxes on his homestead for both 2020 and 2021.

Idaho Code section 63-708 provides for an audit of all claims and recovery of benefits paid in error. During an audit of Petitioner's 2020 and 2021 application, Property Tax re-examined the documentation provided to support Petitioner's status as a widower. According to the death certificate of the woman Petitioner identified as his wife, she was divorced at the time of her passing. Additionally, the death certificate did not list a surviving spouse. Based on this information and because Petitioner did not meet any other status requirement, Property Tax issued him a Notice, requesting re-payment of the benefits received plus interest.

Petitioner protested the Notice, stating in part...

...I am in fact a widower. It is true divorce proceedings were initiated in 2012, however, my wife died prior to the divorce was final, [sic], no final decree was issued, I was still married at the time of my wife's death.

After receiving Petitioner's protest, Property Tax forwarded the matter to the Tax Commission's Appeals unit for administrative review. Appeals sent Petitioner a letter informing him of the options available for redetermining a protested Notice. Petitioner responded but did not request an informal hearing or provide any additional documentation for consideration.

### **Law and Analysis**

Idaho Code section 63-701 uses definitions to describe the conditions that must exist for an applicant to qualify to receive the property tax reduction benefit. The code states in pertinent part:

63-701. DEFINITIONS. As used in this chapter:

(1) "Claimant" means a person who 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:

- (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 veterans 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.

Property Tax Administrative Rule 600 states:

**600. PROPERTY EXEMPT FROM TAXATION (RULE 600).**

The burden of proof of entitlement to the exemption is on the person claiming exemption for the property.

The code sets out certain eligibility requirements for persons seeking a property tax reduction benefit. In his application for the benefit and in his letter of protest, Petitioner claims he is eligible because of his status as a widower. However, as mentioned previously, the certificate of death for Petitioner's wife, lists no surviving spouse and states she was not married when she died.

As part of his protest, and to support his position, Petitioner provided a summary of the actions taken by the District court regarding his divorce. Petitioner argues because the summary shows the status of the case as "Terminated", no final decree was issued, and he was still married at the time of his wife's passing. The summary does show court actions regarding a Qualified Domestic Relations Order related to a retirement pension plan after the date of his wife's death. However, the court summary also states Petitioner was divorced. The

9/11/2013 Bench Notes state, "Parties Granted Divorce", followed by the 11/8/2013 statement; File stamp 11/6/2013, Journal Entry and "Decree of Divorce."

**Conclusion**

Based on the documentation available, Petitioner was divorced prior to his wife's passing, therefore, he is not a widower. Petitioner does not meet any other status requirements for the 2020 and 2021 property tax reduction benefit. The Tax Commission must uphold the Notice.

Therefore, the Notice of Deficiency Determination dated May 19, 2022, is hereby APPROVED and MADE FINAL.

IT IS ORDERED that Petitioner repay the following 2020 and 2021 property tax reduction benefits plus interest.

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2020	\$560	\$17.36	\$557.36
2021	800	4.40	<u>804.40</u>
		TOTAL DUE	\$1,381.76

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 \_\_\_\_\_ 2022.

IDAHO STATE TAX COMMISSION

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2022,  
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.

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