

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
)
 ,) DOCKET NO. 0-991-164-416
)
 Petitioner.) DECISION
)
 _____)

On April 12, 2022, the Property Tax Division (Property Tax) of the Idaho State Tax Commission (Tax Commission) issued a Notice of Deficiency Determination (Notice) to (Petitioner). Petitioner objected to the Notice which requested repayment of a portion of her 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. The amount of the property tax reduction depends on income--the greater the income, the smaller the benefit.

On March 3, 2021, Petitioner filed an application for a property tax reduction benefit with Ada County for tax year 2021. After review and some minor corrections, the County estimated Petitioner’s benefit at \$1,320, notified her of this amount and forwarded the application to the Tax Commission’s Property Tax unit for processing. Property Tax approved the application and Petitioner received a benefit of \$1,029.36, the full amount of the property tax on her homestead.

However, during an audit¹ of Petitioner’s 2021 application, Property Tax reviewed the \$34,442 in medical expenses claimed. Property Tax sent Petitioner a letter on March 23, 2022, requesting she complete a Medical Expense Form listing amounts paid out of pocket for medical expenses in 2020 and attach supporting documentation. Petitioner responded, providing a completed form and a letter stating, “I have folders of receipts for the organic food, vitamins, and supplements and the home changes. It would be extremely difficult to send all of that to you!” To support the medical expenses claimed Petitioner also included a letter from her long-time physician, _____ of _____ located in _____ Oregon, that states in part:

I’ve treated _____ since 1986 for immune deficiency with severe chemical, food, and environmental sensitivities. Please allow _____ to deduct the following on her taxes due to her ongoing condition:

- Organic foods and/or whole foods, bottled or filtered water, prescribed vitamin and food supplements, and other supplements as prescribed.
- Natural fiber clothing and home furnishings such a bedding, linens, pillows, etc. prescribed for her sensitivities.
- Home changes and home maintenance to allow her to more effectively deal with her sensitivities and to be symptom free, including organic lawn care, natural herbicides and pesticides, hardwood and natural fiber furniture and furnishings, natural cleaning products and other item as prescribed; air cleaners, whole house water filter and other filters, replacement filters as needed, etc.

Property Tax reviewed the information Petitioner provided and determined an adjustment to her medical expenses was warranted. Property Tax removed the “specialty items” shown on the expense statement which reduced Petitioner’s benefit to \$250. Therefore, a Notice was issued requesting Petitioner re-pay the benefit received plus interest.

¹ Idaho Code section 63-708 provides for an audit of all claims and recovery of benefits paid in error. Within three (3) years of payment, the state tax commission may recover any erroneous or incorrect payment made under sections 63-701 through 63-710, Idaho Code, from any "claimant" as defined in section 63-701(1), Idaho Code.

Petitioner protested the Notice, disagreeing with the removal of the “specialty items” from her medical expense statement. The “specialty items” included organic foods, vitamins and supplements, changes made to her home, and natural fiber clothing. Petitioner argues these items are necessary for her to cope with her immune deficiency and chemical sensitivities. Petitioner also states she has been deducting these items every year on her federal income tax return since 1986 and the Internal Revenue Service has never questioned them. 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 her of the options available for redetermining a protested Notice. Petitioner contacted Appeals and on June 24, 2022, participated in an informal hearing. During the informal hearing, Petitioner explained her diagnosis in more detail along with the struggles she faces daily but did not provide any documentation for consideration.

LAW AND ANALYSIS

Income for the property tax reduction benefit is defined in Idaho Code section 63-701(5) as follows:

(5) "Income" means the sum of federal adjusted gross income as defined in the Internal Revenue Code, as defined in section 63-3004, Idaho Code, 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.

It does not include gifts from nongovernmental sources or inheritances. **To the extent not reimbursed, the cost of medical care as defined in section 213(d) of the Internal Revenue Code, incurred, or paid by the claimant and, if married, the claimant's spouse, may be deducted from income.** To the extent not reimbursed, personal funeral expenses, including prepaid funeral expenses and premiums on funeral insurance, of the claimant and claimant's spouse only, may be deducted from income up to an annual maximum of five thousand dollars (\$5,000) per claim. "Income" does not include veterans disability pensions received by a person described in subsection (1)(e) of this section who is a claimant or a claimant's spouse if the disability pension is received pursuant to a service-connected disability of a degree of forty percent (40%) or more. "Income" does not include dependency and indemnity compensation, or death benefits paid to a person described in subsection (1) of this section by the United States department of veterans affairs and arising from a service-connected death or disability. "Income" does not include lump sum death benefits made by the social security administration pursuant to 42 U.S.C. 402(i). Documentation of medical expenses may be required by the county assessor and state tax commission in such form as the county assessor or state tax commission shall determine. "Income" shall be that received in the calendar year immediately preceding the year in which a claim is filed. Where a claimant and/or the claimant's spouse does not file a federal tax return, the claimant's, and/or the claimant's spouse's federal adjusted gross income, for purposes of this section, shall be an income equivalent to federal adjusted gross income had the claimant and/or the claimant's spouse filed a federal tax return, as determined by the county assessor. The county assessor or state tax commission may require documentation of income in such form as each shall determine, including, but not limited to copies of federal or state tax returns and any attachments thereto; and income reporting forms such as the W-2 and 1099. (Emphasis added)

As stated in the statute above, a deduction for medical care, as defined in Internal Revenue Code (IRC) section 213(d), is allowed when determining a claimant's household income. IRC section 213(d) defines medical expenses as amounts paid for the diagnosis, mitigation, treatment, prevention of disease or for the purpose of affecting any structure or function of the body.

Taxpayers cannot deduct personal, family, or living expenses as medical care if the expenses do not fall within the section 213 definition. Section 262; section 1.213-1(e)(1)(vi) of the Income Tax Regulations. An expenditure that is merely beneficial to the general health of an individual is personal and is not for medical care. Section 1.213-1(e)(1)(ii).

A taxpayer who claims that an expense of a personal nature is primarily for medical care must establish that fact. Among the objective factors that indicate that an otherwise personal expense is for medical care are the taxpayer's motive or purpose for making the expenditure, whether a physician has diagnosed a medical condition and recommended the item as treatment or mitigation, linkage between the treatment and the illness, treatment effectiveness, and proximity in time to the onset or recurrence of a disease. *Havey v. Commissioner*, 12 T.C. 409 (1949). The taxpayer also must establish that the expense would not have been paid "but for" the disease or illness. A personal expense is not deductible as medical care if the taxpayer would have paid the expense even in the absence of a medical condition. *Commissioner v. Jacobs*, 62 T.C. 813 (1974).

Where an item purchased in a special form primarily for the alleviation of an illness or disease is one that is ordinarily used for personal, living, and family purposes, the excess of the cost of the special form over the normal cost of the item is an expense for medical care under section 213.

Specifically, the excess cost of specially prepared foods designed to treat a medical condition over the cost of ordinary foods which would have been consumed but for the condition is an expense for medical care. See *Randolph v. Commissioner*, 67 T.C. 481 (1976); *Cohn v. Commissioner*, 38 T.C. 387 (1962); *Von Kalb v. Commissioner*, T.C. Memo. 1978-366. A taxpayer who can establish the medical purpose of the diet may deduct the excess cost if the taxpayer can prove what the taxpayer spent for the special diet and what the taxpayer would spend for food to satisfy normal nutritional needs. See *Flemming v. Commissioner*, T.C. Memo. 1980-583.

Therefore, if a taxpayer can establish the medical purpose of the diet, such as through a physician's diagnosis, then to the extent the cost of the food for the special diet exceeds the cost of the food that satisfies a taxpayer's normal nutritional needs if the special diet were not required, the excess cost is an expense for medical care under section 213(d).

In the present matter, Petitioner deducted as a medical expense \$10,659 for organic foods, vitamins, etc.; \$8,454 for home changes and \$1,159 for organic clothing. Petitioner argues these purchases are “things I need in order to cope with my immune deficiency and chemical sensitivities...these are totally necessary for my health and well-being.” Petitioner’s out of state physician provided a letter that supports her claim, but the letter is rather vague in its description of her medical condition, the relationship of the prescribed treatment to that condition, and how the “specialty items” are intended to alleviate her condition. Moreover, even if the purchases are determined to meet the definition of a deductible medical expense, Petitioner did not provide any documentation to substantiate the purchases, stating it would be extremely difficult to provide. Petitioner’s assertion that the IRS has not questioned her medical expenses is not conclusive that said expenses qualify under IRC 213. Additionally, Petitioner appears to be deducting the full amount of these “specialty items” rather than simply the excess cost of these items over plain, everyday items, which if adequately substantiated, may be an allowable medical expense.

CONCLUSION

Petitioner’s 2021 application for property tax reduction benefit was selected for audit and a portion of the medical expenses claimed were disallowed, specifically the “specialty items”. The adjustment increased Petitioner’s net household income therefore, reducing the amount of her benefit. Petitioner received a 2021 benefit in the amount of \$1029.36, the amount of her property taxes. However, with the adjustment to the medical expenses, Petitioner’s allowable benefit is \$250. She must re-pay \$779.36, plus interest.

Therefore, the Notice of Deficiency Determination dated April 12, 2022, is hereby APPROVED and MADE FINAL.

IT IS ORDERED that Petitioner repay the following 2021 property tax reduction benefit plus interest.

<u>BENEFIT</u>	<u>INTEREST</u>	<u>TOTAL DUE</u>
\$779.36	\$3.50	\$782.86

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.
