

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 1-745-912-832
,	)	
	)	
Petitioner.	)	DECISION
<hr style="width: 45%; margin-left: 0;"/>	)	

(Petitioner) protested the Notice of Refund Determination dated March 24, 2022. Petitioner disagreed with Taxpayer Accounting’s disallowance of the retirement benefits deduction claimed on her 2021 Idaho individual income tax return. The Tax Commission reviewed the matter and hereby modifies the Notice of Refund Determination.

**BACKGROUND**

Petitioner filed her 2021 Idaho individual income tax return claiming a deduction for retirement benefits. During processing, Petitioner’s return was identified as a return with an error. Taxpayer Accounting reviewed Petitioner’s return and found that she claimed the retirement benefits deduction excluding all her income. Taxpayer Accounting determined Petitioner did not qualify for the deduction because of her age and because the retirement income was not from a qualifying fund. Taxpayer Accounting corrected Petitioner’s return and sent her a Notice of Refund Determination stating that her retirement income did not qualify for the deduction.

Petitioner protested stating her income was from her late husband’s pension, and that he was both retirement age and disabled. Petitioner stated her husband worked for the city of repairing and maintaining equipment including that of the Fire and Police Departments. Petitioner stated the pension was through the Public Employees’ Retirement System of Idaho (PERSI) and should qualify for the deduction. Petitioner stated since she received the pension as an unremarried widow, she should be able to claim the deduction.

Taxpayer Accounting acknowledged Petitioner's protest and referred the matter to the Tax Commission's Appeals Unit (Appeals). Appeals sent Petitioner a letter giving her the options for having the Notice of Refund Determination redetermined. Petitioner responded by letter and an amended 2021 Idaho income tax return. Petitioner stated she still disagreed with the assessment but is submitting the amended return in the event the pension income is ruled as not qualifying. Petitioner stated the letter from Appeals referenced Income Tax Administrative Rule 130.02.a, relating to the age and disability of the retiree's spouse. However, in the same Rule, 130.01.c.ii, it states "a policeman's retirement fund that no longer admits members and on January 1, 2012, was administered by the public employee retirement system of Idaho" is regarded as qualifying. Petitioner stated her husband retired disabled after working for over 20 years repairing and maintaining the equipment and vehicles of the \_\_\_\_\_ Fire and Police Departments through and for the city of \_\_\_\_\_. Petitioner stated according to Income Tax Administrative Rule 130.01.c.iv, as an unremarried widow, the qualification extends to her.

### **LAW AND ANALYSIS**

Idaho Code section 63-3022A provides for a deduction of certain retirement benefits. Petitioner claimed the deduction assuming that because her husband worked maintaining and repairing the equipment and vehicles of the \_\_\_\_\_ Fire and Police Departments, his participation in PERSI qualified for the deduction. However, as it applies to this case, the statute specifically requires that qualifying retirement benefits must be paid by specific funds to either a retired fireman or a retired policeman of an Idaho city. *See* Idaho Code section 63-3022A(a)(2) and (3). Petitioner's husband was neither. Therefore, based on this requirement alone, Petitioner's pension income does not qualify for the deduction.

In addition to Petitioner's husband not being a fireman or a policeman, Rule 130 requires that the recipient of the retirements benefits meet certain requirements. In Petitioner's case, as an unremarried widow, she must be either age 65 or age 62 and disabled to qualify for the deduction; assuming the benefits are paid from a qualifying fund to a qualifying retiree. Petitioner does not meet either of the age requirements; therefore, she cannot claim the deduction for this reason as well.

Petitioner provided an amended income tax return in the event she was not allowed the retirement benefits deduction. The Tax Commission reviewed Petitioner's amended return and found Petitioner added an additional credit to her return but did not identify the credit on Form 39R. Appeals asked Petitioner to provide a copy of her Form 39R to identify the credit. Petitioner provided the form, and the Tax Commission hereby allows the credit for contributions to Idaho youth and rehabilitation facilities.

### **CONCLUSION**

Petitioner filed her 2021 Idaho individual income tax return claiming the retirement benefits deduction on her late husband's pension paid by PERSI. Petitioner's basis for the claim is that her husband was of retirement age and disabled, and he worked on equipment and vehicles for the Fire and Police Departments as a city employee. Idaho Code section 63-3022A specifies the requirements for the deduction. Petitioner argued her husband's pension qualified because PERSI paid the benefits, and he was associated with the firemen and policemen of

However, to qualify for the deduction the statute specifies that the benefits be paid to a retired fireman or policeman, or to an unremarried widow/widower of either. Based on the information provided, Petitioner's husband was not a retired fireman or policeman. Consequently,

he did not qualify for the retirement benefits deduction, nor does Petitioner qualify as an unremarried widow.

Therefore, the Tax Commission upholds the adjustment to Petitioner's Idaho individual income tax return. However, Petitioner did submit an amended return that in addition to correcting the retirement benefits deduction, claimed a credit not claimed on her original income tax return. The Tax Commission reviewed the credit and found the credit allowable.

Taxpayer Accounting did not add interest to Petitioner's tax deficiency. However, Idaho Code section 63-3045 states that interest shall be added to any deficiency in tax and will continue to accrue until the deficiency is paid. Therefore, the Tax Commission added interest to Petitioner's tax deficiency. Interest is computed to December 31, 2022.

THEREFORE, the Tax Commission AFFIRMS as MODIFIED by this decision the Notice of Refund Determination dated March 24, 2022, directed to \_\_\_\_\_.

IT IS ORDERED that Petitioner pay the following tax and interest:

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2021	\$944	\$20	\$964

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.

---

---