



property taxes were reduced by this amount, and it was reflected on the tax bill he received from Ada County on November 15, 2020.

However, during an audit<sup>2</sup> of Petitioner's 2020 application, Property Tax realized Petitioner did not meet one of the eligibility requirements, ownership. Therefore, a Notice was issued requesting Petitioner re-pay the benefit received plus interest.

Petitioner protested the Notice, arguing that the Tax Commission had all relevant information when they approved his benefit and re-payment two years later is unfair and is an unexpected financial burden. 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 contacted Appeals and on August 29, 2022, participated in an informal hearing. During the informal hearing, Petitioner voiced his displeasure with the amount of time that passed before Property Tax notified him of the error and with the administrative review process itself; mainly arguing that the informal hearing was a waste of time if Appeals did not have the authority to let the original tax bill stand.

### **Law and Analysis**

The property tax reduction benefit is described in Idaho Code section 63-701, 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 first filed a claim

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<sup>2</sup> 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.

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:

(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.

(7) "Owner" means a person holding title in fee simple or holding a certificate of motor vehicle title (either of which may be subject to mortgage, deed of trust or other lien) or who has retained or been granted a life estate or who is a person entitled to file a claim under section 63-702, Idaho Code. "Owner" shall also include any person who:

(a) Is the beneficiary of a revocable or irrevocable trust which is the owner of such homestead and under which the claimant or the claimant's spouse has the primary right of occupancy of the homestead.

Idaho Code section 63-701 requires the subject property to be owner-occupied and used as the primary dwelling place of the claimant for the property tax reduction benefit. To qualify as a claimant for circuit breaker purposes, the applicant must be the owner of the homestead on January 1, or before April 15, of the year in which the claim was filed.

In the present case, the record shows Petitioner did not own the subject property on January 1, 2020, or before April 15, 2020. It is unfortunate that Petitioner provided this information on his application, but the Tax Commission processed the application, and he received a benefit that he was not entitled to. Nonetheless, the Tax Commission must enforce the law and is not estopped by previous acts or conduct of its agents with reference to the determination of tax liabilities or by failure to collect the tax, nor will the mistakes or misinformation of its officers estop it from collecting the tax. (See *State of Idaho v. Adams*, 90 Idaho 195, (1965).)

**Conclusion**

The Tax Commission has an obligation to treat Petitioners alike. Petitioner did not own and occupy the property for which relief is sought as of January 1 or before April 15 of 2020. He does not meet the ownership requirement for a special property tax reduction benefit.

Therefore, the Notice of Deficiency Determination dated May 24, 2022, is hereby APPROVED and MADE FINAL.

IT IS ORDERED that Petitioner repay the following 2020 property tax reduction benefit plus interest.

<u>BENEFIT</u>	<u>INTEREST</u>	<u>TOTAL DUE</u>
\$1,320	\$41.29	\$1,361.29

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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