

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
)
 ,) DOCKET NO. 0-878-117-888
)
 Petitioner.) DECISION
)
 _____)

The Property Tax Division (Property Tax) of the Idaho State Tax Commission (Tax Commission) issued a Notice of Deficiency Determination (Notice) to (Petitioner) for tax year 2021. Petitioner objected to the Notice which requested repayment of a 2021 Idaho Property Tax Reduction Benefit. The Tax Commission reviewed the case and hereby issues its decision upholding the Notice.

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.

Petitioner timely filed an application for a property tax reduction benefit with Ada County for 2021. Ada County sent the application to the Tax Commission’s Property Tax unit for processing. Property Tax approved the application and Petitioner received a benefit for payment of a portion of the property tax on his homestead.

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 2021 application, Property Tax discovered the application

was incomplete as it showed no income for Petitioner's spouse. Therefore, a Notice was issued requesting Petitioner re-pay the benefit received plus interest.

Petitioner protested the Notice, stating even though he is married, his wife left in May of 2018 and files married filing separate tax returns. Petitioner also argues his wife has not lived in the house since May of 2018, he is the sole owner, and she provides no income to his household.

After receiving Petitioner's protest, Property Tax forwarded the matter to the Tax Commission's Appeals unit for administrative review. Petitioner elected his mother, (Representative), to be his Power of Attorney due to his hearing loss. An informal hearing was scheduled to present Petitioner's argument for why his spouse's income should not be included in the application even though they are still married.

LAW AND ANALYSIS

63-701. Definitions. As used in this chapter: (in relevant part)

(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.** (Emphasis added.)

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

In the present matter, Petitioner filed a claim. He 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. As of January 1, 2021, Petitioner was married. The fact that he and his wife 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, he is married. Therefore, he must include his spouse's income to determine whether he qualifies for the property tax reduction benefit and if so, how much of a benefit is he entitled to. The statute

provides no exception to this requirement. Without Petitioner's spouse's 2020 income information Petitioner's application is incomplete and the benefit he received was in error.

CONCLUSION

As of January 1, 2021, Petitioner was married. Therefore, he must include his spouse's income information on his property tax reduction benefit application. Without complete income information, the Tax Commission must deny Petitioner a benefit for 2021.

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 property tax reduction benefit plus interest.

<u>BENEFIT</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$1,050	\$5.78	\$1,055.78

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.
