

13-363

TAX TYPE: PROPERTY TAX- CIRCUIT BREAKER

TAX YEAR: 2012

DATE SIGNED: 1-10-2014

COMMISSIONERS: B. JOHNSON, M. CRAGUN, R. PERO

EXCUSED: D. DIXON

GUIDING DECISION

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BEFORE THE UTAH STATE TAX COMMISSION

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PETITIONER,

Petitioner,

vs.

SALT LAKE COUNTY COUNCIL-TAX  
ADMINISTRATION PROPERTY TAX  
COMMITTEE, STATE OF UTAH,

Respondent.

**INITIAL HEARING ORDER**

Appeal No. 13-363

Parcel No. #####

Tax Type: Circuit Breaker

Tax Year: 2012

Judge: Phan

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**Presiding:**

Jane Phan, Administrative Law Judge

**Appearances:**

For Petitioner: PETITIONER, By Telephone

For Respondent: RESPONDENT, Deputy Salt Lake County Attorney

STATEMENT OF THE CASE

This matter came before the Commission for an Initial Hearing in accordance with Utah Code §59-1-502.5, on December 12, 2013. Petitioner (“Property Owner”) is appealing the decision of Respondent (“County”) to disallow a Circuit Breaker/Tax Abatement rebate for the 2012 tax year. The Property Owner had timely applied for the rebate and it was denied by the County on the basis that the Property Owner’s household income was over the statutory limit. The Property Owner appealed the decision to the Utah State Tax Commission.

APPLICABLE LAW

Utah Code 59-2-1208(1)(a) provides for a homeowner’s credit for low income residents in pertinent part:

“for calendar years beginning on or after January 1, 2007, a claimant may claim a homeowner’s credit that does not exclude the following amounts:

If household income is	Homeowner’s credit
\$0 - \$9,159	\$798
\$9,160 - \$12,214	\$696
\$12,215 - \$15,266	\$597

\$15,267 - \$18,319	\$447
\$18,320 - \$21,374	\$348
\$21,375 - \$24,246	\$199
\$24,247 - \$26,941	\$98

Utah Code 59-2-1202(5) defines “Household income” as, “all income received by all persons of a household in: (a) the calendar year preceding the calendar year in which property taxes are due; or (b) for purposes of the renter’s credit authorized by this part, the year for which a claim is filed.

Utah Code 59-2-1202(6) then defines “income” to be, “(6)(a)(i) “Income” means the sum of: (A) federal adjusted gross income as defined in Section 62, Internal Revenue Code; and (B) all nontaxable income as defined in Subsection (6)(b) . . . (b) For purposes of Subsection 6(a)(i), “nontaxable income” means amounts excluded from adjusted gross income under the Internal Revenue Code including: . . . (viii) payments received under the Social Security Act; . . .

DISCUSSION

In this matter the Property Owner had timely filed an application for the circuit breaker rebate for the 2012 tax year. The amount of the rebate is based on the “household income,” as defined in Utah Code 59-2-1202 for the prior year. In determining household income based on the statutory definition the County must consider the adjusted gross income which the Property Owner had claimed on her return for the prior year and add to that her nontaxable Social Security benefits. In this matter the County calculated that the Property Owner’s household income for purposes of the rebate was \$\$\$\$\$, based on \$\$\$\$\$ in adjusted gross income on the 2011 federal return and \$\$\$\$\$ of nontaxable Social Security benefits for 2011. This household income was over the amount set by statute for the circuit breaker rebate and the County had denied the rebate.

At the hearing the Property Owner explained that she had filed the request because she did have substantial financial hardship based on her limited income and her expenses including the property taxes and other expenses associated with the residence. She explained that she was not able to keep up with all the expenses so she had sold her residence in July 2013 and had moved into an apartment. She did not dispute the County’s conclusion regarding the amount of her household income or provide any further argument for her request.

It was the County’s position that based on the express statutory provisions set out Utah Code 59-2-1201 et al, the Property Owner did not qualify for the credit because her household income was over the limit set out in those provisions and the provisions do not allow the County to take into consideration the Property Owner’s expenses.

After reviewing the law and the facts in this matter, the Property Owner did not qualify for the credit for the 2012 tax year and her application was properly denied by the County.

Jane Phan  
Administrative Law Judge

DECISION AND ORDER

Based on the foregoing, the Commission denies the Property Owner's appeal in this matter. It is so ordered.

This decision does not limit a party's right to a Formal Hearing. However, this Decision and Order will become the Final Decision and Order of the Commission unless any party to this case files a written request within thirty (30) days of the date of this decision to proceed to a Formal Hearing. Such a request shall be mailed to the address listed below and must include the Petitioner's name, address, and appeal number:

Utah State Tax Commission  
Appeals Division  
210 North 1950 West  
Salt Lake City, Utah 84134

Failure to request a Formal Hearing will preclude any further appeal rights in this matter.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

R. Bruce Johnson  
Commission Chair

D'Arcy Dixon Pignanelli  
Commissioner

Michael J. Cragun  
Commissioner

Robert P. Pero  
Commissioner

