

15-2092

TAX TYPE: CIRCUIT BREAKER TAX EXEMPTION

TAX YEAR: 2015

DATE SIGNED: 5-9-2016

COMMISSIONERS: J. VALENTINE, M. CRAGUN, R. PERO, R. ROCKWELL

GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,

Petitioner,

v.

SALT LAKE COUNTY COUNCIL-TAX
ADMINISTRATION, PROPERTY TAX
COMMITTEE,

Respondent.

INITIAL HEARING ORDER

Appeal No. 15-2092

Tax Type: Circuit Breaker Tax
Exemption

Parcel No. #####

Tax Year: 2015

Judge: Phan

Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER
REPRESENTATIVE FOR PETITIONER

For Respondent: RESPONDENT, Salt Lake County Tax Administration

STATEMENT OF THE CASE

Petitioner (“Property Owner”) brings this appeal from the decision of the Salt Lake County Council Property Tax Administration (“County”) under Utah Code §59-2-1217 in which the County denied the Property Owner the homeowners circuit breaker tax relief for the 2015 tax year. This matter was argued before the Utah State Tax Commission in an Initial Hearing on April 12, 2016, in accordance with Utah Code §59-1-502.5.

APPLICABLE LAW

The Counties are authorized to provide Circuit Breaker Property Tax Relief at Utah Code Sec. 59-2-1208 as follows:

(1)(a) Subject to Subsections (2) and (4), for calendar years beginning on or after January 1, 2007, a claimant may claim a homeowner’s credit that does not exceed the following amounts . . .

The statute specifically defines “claimant” to be the following at Utah Code Sec. 59-2-1202(1)(a):

“Claimant” means a homeowner or renter who: (i) has filed a claim under this part; (ii) is domiciled in this state for the entire calendar year for which a claim for relief is filed under this part; and (iii) on or before December 31 of the year for which a claim for relief is filed under this part, is: (A) 65 years of age or older if the person was born on or before December 31, 1942; (B) 66 years of age or older if the person was born on or after January 1, 1943, but on or before December 31, 1959; or (C) 67 years of age or older if the person was born on or after January 1, 1960.

The circuit breaker tax relief credit is based on “household income”. “Household income” and “income” are defined at Utah Code Sec. 59-2-1202(5)&(6) as follows:

(5) “Household income” means all income received by all persons of a household in: (a) the calendar year preceding the calendar year in which property taxes are due . . .

(6)(a)

(i) “Income” means the sum of: (A) federal adjusted gross income as defined in Section 2, Internal Revenue Code; and (B) all nontaxable income as defined in Subsection (6)(b).

(ii) “Income” does not include: (A) aid, assistance, or contributions from a tax-exempt nongovernmental source; (B) surplus foods; (C) relief in kind supplied by a public or private agency; or (D) relief provided under this part, Section 59-2-1108, or Section 59-2-1109.

(b) For purposes of Subsection (6)(a)(i), “nontaxable income” means amounts excluded from adjusted gross income under the Internal Revenue Code, including:

(i) capital gains; (ii) loss carry forwards claimed during the taxable year in which a claimant files for relief under this part, Section 59-2-1108, or Section 59-2-1109; (iii) depreciation claimed pursuant to the Internal Revenue Code by a claimant on the residence for which the claimant files for relief under this part, Section 59-2-1108, or Section 59-2-1109; (iv) support money received; (v) nontaxable strike benefits; (vi) cash public assistance or relief; (vii) the gross amount of a pension or annuity, including benefits under the Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et seq., and veterans disability pensions; (viii) payments received under the Social Security Act; (ix) state unemployment insurance amounts; (x) nontaxable interest received from any source; (xi) workers’ compensation; (xii) the gross amounts of “loss of time” insurance; and (xiii) voluntary contributions to a tax-deferred retirement plan.

A person has the right to appeal the denial of this credit under Utah Code Sec. 59-2-1217 as follows:

Any person aggrieved by the denial in whole or in part of relief claimed under this part, except when the denial is based upon late filing of claim for relief, may appeal the denial to the commission by filing a petition within 30 days after the denial.

Utah Admin. Rule R865-9I-34(A) provides that it is the number of persons residing in the household as of January 1 that constitutes “household” for purposes of this tax relief as follows:

“Household” is determined as follows: 1. For purposes of the homeowner’s credit under Section 59-2-1208, household shall be determined as of January 1 of the year in which the claim under that section is filed.

DISCUSSION

Property Owner had timely filed an application to Salt Lake County for the 2015 circuit breaker property tax relief for the tax assessment on the subject property. The County denied the circuit breaker tax relief credit for the 2015 tax year because the Property Owner’s “household income” as defined by Utah Code Sec. 59-2-1202(5)&(6) exceeded the limit for the 2015 tax year. In order to qualify for this property tax relief the “household income” limit was \$\$\$\$\$. For purposes of determining the 2015 tax relief credit, “Household income” is based on the 2014 income and includes the income of every member in the household. The County found that the Property Owner’s “Household income” under Utah Code Sec. 59-2-1202(5)&(6) was \$\$\$\$\$. The County notes that the income was determined by considering the Property Owner’s income, his wife’s income and a small amount of declared income from their son who was a member of the household.

Although the County had denied the circuit breaker property tax relief to the Property Owner, they did grant \$\$\$\$\$ in hardship tax relief based on the fact that the Property Owner and his spouse had demonstrated some \$\$\$\$\$ in out of pocket medical expenses. The County did not provide the statutory code citation under which hardship relief had been allowed. Utah law provides abatement for indigent person at Utah Code Secs. 59-2-1107 through 1109, but that is also limited to persons earning less than the maximum household income at Utah Code Sec. 59-2-1202. The County Legislative Body does have discretion to make adjustments to the tax or defer tax under Utah Code Sec. 59-2-1347 but the State Tax Commission does not have authority to review the County Legislative Body’s action under this section of the code.

It was not disputed that the subject property is the residence in which the Property Owner resides with his wife who is joint owner of the property and their adult son. They did not dispute that their son resided with them. The Property Owner is over the age of 66; he stated that he was 84 at the hearing. They did not argue that they had earned less than \$\$\$\$\$ in household income. Their argument for this tax relief credit at the hearing was based on financial hardship. The Property Owner and his wife stated that they were living on fixed income, had numerous medical

expenses due to a number of medical issues and they simply could not afford to pay the tax. REPRESENTATIVE FOR TAXPAYER explained that as a result of her numerous medical conditions she has been unable to eat solid foods and the special foods that she could eat were expensive. Further, her condition made her constantly cold and she had to have the heat in the house turned up much higher than was economically practical. Their son had a different condition that had caused him so much weight loss that he also needed more heat. The Property Owner explained that due to this, they have been unable to pay off of their gas and electric bills and he is planning on going to talk to those two companies about their financial hardship issues.

At the hearing they presented copies of various medical billings and pharmacy billings occurring in 2014, as well as a COMPANY property assessment. Totaled these amounts were less than \$\$\$\$ in out of pocket medical expenses, which was the amount they had provided to the County and for which the County had based the hardship tax relief.¹ The County's representative stated that she would take a look at these and see if any of these amounts were not already included in the County's hardship tax relief calculation.

After reviewing the information provided at the hearing and the applicable law, the County was correct that the Property Owner did not qualify for the circuit breaker tax relief as the "household income" was too high to qualify for the 2015 tax year under Utah Code Sec. 59-2-1209. Although the Property Owner had the right to appeal the County's decision to deny the circuit breaker tax relief to the Utah State Tax Commission under Utah Code Sec. 59-2-1217, the Utah State Tax Commission must still follow the same law in determining whether or not the Property Owner qualified for this tax relief. The Tax Commission does not have authority to review a hardship adjustment made by the County Legislative Body under Utah Code Sec. 59-2-1347.

Jane Phan
Administrative Law Judge

DECISION AND ORDER

Based on the foregoing, the Commission denies the Property Owner's appeal of the County's decision to deny circuit breaker tax relief for the 2015 tax year. It is so ordered.

¹ The Property Owner had not delivered a copy of this evidence to the County ten business days prior to the hearing. The Notice of Initial Hearing had instructed the parties of this requirement. Therefore, the County did not have the chance to review this information prior to the hearing and compare it with what had already been submitted to the County and included in the \$\$\$\$ in out of pocket medical expenses considered in the hardship relief.

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, or emailed, 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

or emailed to:
taxappeals@utah.gov

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

DATED this _____ day of _____, 2016.

John L. Valentine
Commission Chair

Michael J. Cragun
Commissioner

Robert P. Pero
Commissioner

Rebecca L. Rockwell
Commissioner