

16-1310

TAX TYPE: CIRCUIT BREAKER EXEMPTION

TAX YEAR: 2016

DATE SIGNED: 2/21/2017

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

GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER-1 & PETITIONER-2,

Petitioners,

v.

BOARD OF COUNTY COMMISSIONERS,
STATE OF UTAH,

Respondent.

INITIAL HEARING ORDER

Appeal No. 16-1310

Tax Type: Circuit Breaker Exemption

Tax Year: 2016

Judge: Phan

Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER-1

For Respondent: RESPONDENT-1, Deputy COUNTY Attorney

RESPONDENT-2, COUNTY Tax Administration Supervisor

STATEMENT OF THE CASE

Petitioners (“Property Owners”) bring this appeal from the decision of the Board of COUNTY Commissioners (“County”) under Utah Code §59-2-1217 in which the County denied them the homeowners’ circuit breaker property tax relief for the 2016 tax year. This matter was argued before the Utah State Tax Commission in an Initial Hearing on November 28, 2016, in accordance with Utah Code §59-1-502.5.

APPLICABLE LAW

Circuit Breaker Property Tax Relief is provided for 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 Subsection 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.

Circuit breaker property tax relief is based on “household income”. “Household income” and “income” are defined at Utah Code Subsections 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 property tax relief 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

The Property Owners had timely filed an application to COUNTY for the 2016 circuit breaker property tax relief for the tax assessment on their residence. The County denied the circuit breaker property tax relief for the 2016 tax year because the Property Owners’ “household income,” as defined by Utah Code Subsections 59-2-1202(5)&(6), exceeded the income limit for the 2016 tax year. In order to qualify for this property tax relief, the “household income” limit was \$31,845. For purposes of determining eligibility for the property tax relief, “household income” is based on the 2015 income and includes the income of every member in the household. The County found that the Property Owners’ “household income” under Utah Code Subsections 59-2-1202(5)&(6) was \$\$\$\$\$, which was over the maximum limit allowed. The County points out that under the statutory definition both taxable and nontaxable income is considered in “household income.” The Property Owners had received \$\$\$\$\$ combined in Social Security benefits. They had also received distributions totaling \$\$\$\$\$, which were reported on 1099-Rs. These amounts resulted in the \$\$\$\$\$ of “household income.”

The Property Owners requested that one of the 1099-R distributions they had received, an amount of \$\$\$\$\$ from LIFE INSURANCE COMPANY, be treated as a loan because they could pay it back. They explained that they needed this money to pay for dental implants. The County’s representatives point out that the Property Owners were not required, however, to pay back this distribution. If they did not pay it back, the distribution reduces the eventual payout. The County points out that it was reported as a distribution to the Property Owners and not as a loan.

One point noted by the County about this distribution is that the 1099-R reported a \$\$\$\$ distribution, but also reported that of this amount only \$\$\$\$ was taxable income. The remaining \$\$\$\$ was listed in Box 5 on that form for “Employee Contributions/Designated Roth Contributions or Insurance Premiums.” The County’s representatives point out that under Utah Code Subsections 59-2-1202(5)&(6), “household income” includes both federal adjusted gross income and nontaxable income. Utah Code Subsection 59-2-1202(6) specifies that the types of nontaxable income that constitute “household income” include “the gross amount of a pension or annuity” and “payments received under the Social Security Act,” among other types of income. If the County had included only the portion of the distribution listed as the taxable amount on the 1099-R from LIFE INSURANCE COMPANY, the Property Owners would have been under the limit on their “household income.” However, the law specifically requires that the “gross amount” be included, which is what the County had done in calculating household income. In *Khan v. Tax Commission*, 2016 UT App 142, ¶19, the Utah Court of Appeals did look at the statutory definition of “household income” at Utah Code Subsection 59-2-1202(6) and had specifically added nontaxable IRA distributions in its application of that provision.

After reviewing the information provided at the hearing and the applicable law, the County was correct that the Property Owners did not qualify for circuit breaker property tax relief, as their “household income” was too high to qualify for the 2016 tax year under Utah Code Sec. 59-2-1208. There is no provision in the law that grants the Tax Commission discretion to allow this credit where the “household income” is over the statutory limit.

Jane Phan
Administrative Law Judge

DECISION AND ORDER

Based on the foregoing, the Commission denies the Property Owners’ appeal of the County’s decision to deny circuit breaker tax relief for the 2016 tax year. 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, or emailed, to the address listed below and must include the Petitioner's name, address, and appeal number:

Utah State Tax Commission
Appeals Division

Appeal No. 16-1310

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 _____, 2017.

John L. Valentine
Commission Chair

Michael J. Cragun
Commissioner

Robert P. Pero
Commissioner

Rebecca L. Rockwell
Commissioner