

16-1565
TAX TYPE: CIRCUIT BREAKER TAX EXEMPTION
TAX YEAR: 2016
DATE SIGNED: 4-10-2017
COMMISSIONERS: J. VALENTINE, R. PERO R. ROCKWELL
EXCUSSED: M. CRAGUN
GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,	INITIAL HEARING ORDER
Petitioner,	
v.	Appeal No. 16-1565
COUNTY-1 COUNCIL-TAX ADMINISTRATION,	Tax Type: Circuit Breaker Tax Exemption
Respondent.	Tax Year: 2016
	Judge: Phan

Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER, By Telephone
For Respondent: REPRESENTATIVE FOR RESPONDENT, Deputy COUNTY-1
District Attorney
RESPONDENT, Tax Relief Deferral Program Coordinator,
COUNTY-1

STATEMENT OF THE CASE

Petitioner (“Property Owner”) brings this appeal from the decision of the COUNTY-1 Council-Tax Administration (“County”) under Utah Code §59-2-1217 in which the County denied the Property Owner the homeowner’s 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 February 28, 2017, 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 Owner had timely filed an application to the County for the 2016 circuit breaker property tax relief for the tax assessment on his residence. The County denied the circuit breaker property tax relief for the 2016 tax year because the Property Owner’s “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 in 2016, the “household income” limit was \$\$\$\$\$. For purposes of determining eligibility for the property tax relief, “household income” is based on the 2015 income and it includes the income of every member in the household. In this appeal, the household consisted of PETITIONER and PETITIONER’S WIFE. The County found that the Property Owner’s “household income” under Utah Code Subsections 59-2-1202(5)&(6) was \$\$\$\$\$, which was just \$\$\$\$\$ over the maximum limit allowed.

At the hearing, the County provided copies of Forms SSA-1099 for both of the Property Owners as well as a Form 1099-R that showed an IRA distribution. These forms showed that the Property Owner had received income during 2015 as follows:

Social Security – PETITIONER	\$\$\$\$\$
Social Security – PETITIONER’S WIFE	\$\$\$\$\$
IRA Distribution- PETITIONER’S WIFE	\$\$\$\$\$
	\$\$\$\$\$

The Property Owner explained that they had to withdraw money from their IRA to help with medical costs incurred when PETITIONER'S WIFE had a surgery. He explained that he is 88 years old and that he and his wife had been receiving the circuit breaker property tax relief for years. They had no idea that the withdrawal from their IRA would put them just \$6.00 over the limit for the property tax relief. He stated that had they known, they would have done things differently.

The County's representative points out that under Utah Code Subsections 59-2-1202(5)&(6), "household income" includes both federal adjusted gross income and nontaxable income. In this case, all of the IRA distribution had been reported on the Form 1099-R as taxable income.¹ 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. The County followed the statutory provisions and calculated out that the Property Owner was just over the maximum income limit to qualify for the circuit breaker property tax relief. The County's representative pointed out that there is no provision in the law that allows discretion to either the County or the Tax Commission to extend the limit. In addition, the County noted that the property tax relief is a graduated amount that decreases as the household income increases, up to the maximum limit amount. Had the Property Owners not taken out the IRA distribution, the amount of relief they would have received would have been \$\$\$\$\$, based on their Social Security income. The County agreed that the situation was unfortunate, as had the Property Owners known how near they were to the limit, they could have taken less of a distribution. The County stated, regardless, there was no basis in the law to issue the circuit breaker tax relief to the Property Owner. The County did provide a prior Tax Commission decision in which the Commission had concluded it did not have discretion to allow the circuit breaker tax relief based on hardship.²

After reviewing the information provided at the hearing and the applicable law, the County was correct that the Property Owner did not qualify for circuit breaker property tax relief, as the "household income" was too high to qualify for the 2016 tax year under Utah Code Sec.

¹ However, even if some portion of the gross amount of the distribution had been listed as not taxable, the untaxable amount may also have been added. See *Khan v. Tax Commission*, 2016 UT App 142, ¶19, in which the Utah Court of Appeals did look at the statutory definition of "household income" at Utah Code Subsection 59-2-1202(6) and specifically added nontaxable IRA distributions in its application of that provision.

² The County cited to *Utah State Tax Commission Findings of Fact, Conclusions of Law, and Final Decision, Appeal No. 15-460* (January 19, 2016). This and other Tax Commission decisions are published in a redacted format at tax.utah.gov/commission-office/decisions.

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 Owner’s appeal of the County’s decision regarding 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
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