17-615
TAX TYPE: PROPERTY TAX RENTER'S CREDIT
TAX YEAR: 2016
DATE SIGNED: 12/9/2019
COMMISSIONERS: J. VALENTINE, M. CRAGUN, R. ROCKWELL, L. WALTERS
GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER, Petitioner, v. TAXPAYER SERVICES DIVISION OF THE UTAH STATE TAX COMMISSION, Respondent.	**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION** Appeal No. 17-615 Account No. ##### Tax Type: Property Tax Renter's Credit Tax Year: 2016 Judge: Chapman

Presiding:
Michael J. Cragun, Commissioner
Kerry R. Chapman, Administrative Law Judge

Appearances:
For Petitioner: PETITIONER, Applicant (by telephone)
Respondent: REPRESENTATIVE FOR RESPONDENT, Assistant Attorney General
RESPONDENT, from Taxpayer Services Division

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on November 12, 2019. Based on the evidence and testimony presented at the hearing, the Commission hereby makes its:

FINDINGS OF FACT

1. At issue is the amount of property tax renter's credit (which is sometimes referred to as "circuit breaker" relief) that PETITIONER ("Petitioner" or "applicant") is entitled to receive for the 2016 tax year (which is determined using income and rent information from "rent year" 2015).

2. On or around December 11, 2016, PETITIONER submitted a USTC Form TC-90CB (Renter Refund Application) ("2016 Form TC-90CB"), on which he requested a property tax renter's credit for rent year 2015. On this form, PETITIONER indicated that he lived in three different apartments during 2015 and that the total rent he paid at each apartment was: 1) $$$$$ for the first apartment that he rented for nine months (where the rent did not include gas or electricity); 2) $$$$$ for

the second apartment that he rented for two months (where the rent did not include gas or electricity); and 3) $$$$$ for the third apartment that he rented for one month (where the rent included gas but not electricity). PETITIONER also indicated on the 2016 Form TC-90CB that his "household income" was $$$$$, as follows:[1]

1. Wages/salaries/tips/other compensations (W-2, 1099Misc, etc.) . . . . . $$$$$
2. Total interest income, dividends (taxable and nontaxable) . . . . . $$$$$
3. Pensions, annuities (taxable and nontaxable) . . . . . $$$$$
4. Gross Social Security and railroad retirement (taxable and nontaxable) . . . . . $$$$$
5. Capital gain/loss (exclude carryforwards/carrybacks) . . . . . ($$$$$)
6. Government assistance given directly to you . . . . . $$$$$
7. Unemployment, worker's compensation . . . . . $$$$$
8. Business, rental, farm income . . . . . $$$$$
9. Other income (see Utah Code 59-2-1202) . . . . . ($$$$$)[2]
10. Total household income from all sources for last year (add lines 1 through 9) . . . $$$$$

3. The Division, however, determined that the "household income" amount of $$$$$ that PETITIONER derived on his 2016 Form TC-90CB was incorrect. On March 16, 2017, the Division issued a Statutory Notice, on which it indicated that:[3]

> We have reviewed your Rental Refund Application (Circuit Breaker Application) form TC-90CB . . . and determined the following errors from your supporting documentation. This increased the amount of your adjusted household income to $$$$$, which results in a Circuit Breaker Refund of $$$$$.
>
> 1) You were allowed a $$$$$ capital loss on Line 5 since this was the amount of your current year capital gain or loss. You were not allowed a loss carry forward listed on Line 9 "Other Income." Utah Code Section 59-2-1202 defines "Income" for the purposes of the Circuit Breaker Rebate to include the sum of your federal adjusted gross income and other nontaxable income which the code defines. One of the items specifically defined to be included is "loss carry forwards claimed during the taxable year in which a claimant files for relief." This means that while carry forward losses are allowed for the determination of your federal adjusted gross income, they are not allowed for the determination of your income for the Circuit Breaker Rebate.

To derive its "total household income" of $$$$$, the Division eliminated the $$$$$ loss that PETITIONER reported on line 9 and decreased the capital loss of $$$$$ that he reported on line 5 to $$$$$.

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1 Respondent's Formal Hearing Exhibit 1.

2 On line 9 of the 2016 Form TC-90CB, PETITIONER had written in the words "Loss Carry Forward."

3 Respondent's Formal Hearing Exhibit 2, p. 3.

4. On March 29, 2017, the Division sent PETITIONER a letter in which the Division explained how it determined that PETITIONER was allowed to deduct a capital loss of $$$$$ for purposes of determining his household income, as follows in pertinent part:[4]

> We received a message from you on March 24, 2017 requesting a detailed explanation of the capital loss allowed. Line 5 was adjusted from ($$$$$) to ($$$$$). The amount allowed was calculated using the Schedule D from the 2015 federal return. Schedule D part 1 shows a loss of ($$$$$) on line 1a and a loss of ($$$$$) on line 2. Schedule D part 2 shows a gain of $$$$$ on line 8a. The total of those three amounts results in a loss of ($$$$$); this was your current year capital loss. The reasons that the $$$$$ was allowed is because current year capital losses are used to calculate your income in regards to the circuit breaker refund application. Prior year loss carry forwards are not included in the calculation of income for the circuit breaker refund application per Utah Code 59-2-1202.

5. On or around March 30, 2017, PETITIONER submitted a Petition for Redetermination to contest the changes that the Division made in its Statutory Notice.[5]

6. The Commission held an Initial Hearing in this matter, and on October 10, 2017, the Commission issued its Initial Hearing Order. PETITIONER requested to proceed to a Formal Hearing.

7. Before a Formal Hearing was held, however, the Division submitted a Motion for Summary Judgment ("Motion"), in which it asked the Commission to find that "the Division was correct in not treating Petitioner's listed loss carry forward as a deduction to household income for purposes of the 'circuit breaker' renter relief[,]" which "would result in a [renter's credit] refund of $$$$$." As a result, the Commission held a Hearing on Motion, at which the parties made their oral arguments.

8. On March 8, 2019, the Commission issued an Order Granting the Respondent's Motion for Summary Judgment in Part and Denying It in Part ("Summary Judgment Order"). In the Summary Judgment Order, the Commission found that it could not determine, as a matter of law, the amount of the 2016 renter's credit to which PETITIONER was entitled and would need to schedule further proceedings on this issue. However, the Commission did determine, as a matter of law, that PETITIONER improperly

4 Respondent's Formal Hearing Exhibit 3.
5 Respondent's Formal Hearing Exhibit 4.

deducted the loss carry forward of $$$$$ on line 9 when deriving "household income" on his 2016 Form TC-90CB, as follows in pertinent part:

> . . . .
> In *PETITIONER v. Tax Comm'n*, 2016 UT App 142 ("*PETITIONER* 2016"), the Utah Court of Appeals considered PETITIONER's calculation of "household income" for purposes of claiming the renter's credit for a prior year (i.e., year prior to the year at issue in the current appeal). In that case, the Court found that Utah's statutory term "loss carry forwards" (as found in Subsection 59-2-1202(6)(b)(ii)) was synonymous with federal income tax loss carryover and was not a deduction offsetting the taxpayer's income to determine a renter's refund but was added to the taxpayer's federal adjusted gross income to determine "household income." As a result, the Court found that PETITIONER improperly deducted his capital loss carryover of PETITIONER for that year when he calculated a "household income" of $$$$$ for renter's credit purposes.
> Furthermore, in *PETITIONER v. Tax Comm'n*, 2018 UT App 13 ("*PETITIONER* 2018"), the Court reaffirmed its prior decision concerning PETITIONER's attempt to deduct a "loss carry forward" when determining his "household income" for another prior tax year. As a result, the Court's decision on this particular matter is well-settled and is precedent that the Commission must follow. Accordingly, as a matter of law, the Commission finds that the Division properly determined that PETITIONER may not deduct a "loss carry forward" of $$$$$ for purposes of deriving his "household income" for the 2016 year at issue. For these reasons, the Commission should grant this part of the Division's Motion for Summary Judgment (footnote omitted).
> . . . .

9. At the Formal Hearing, PETITIONER still contended that he should be allowed to deduct the $$$$$ loss carry forward when determining his "household income" for purposes of the 2016 property tax renter's credit. The Commission, however, has already found that such a deduction would be contrary not only to Utah law, but also to decisions of the Utah Court of Appeals.[6] Accordingly, the $$$$$ loss carry forward that PETITIONER deducted on line 9 of his 2016 Form TC-90C is disallowed.

10. In the Summary Judgment Order, however, the Commission did not decide whether the Division properly reduced the capital loss of $$$$$ that PETITIONER claimed on line 5 of the 2016 Form TC-90CB to $$$$$, explaining that:

6 While PETITIONER cannot deduct the loss carry forward for purposes of determining his "income" and "household income" for *property tax purposes* (as determined under Utah Code Ann. §59-2-1202(5) and (6) (2016)), such a finding has no effect on whether he can deduct the loss carry forward for *income tax purposes*.

> Furthermore, for the current year at issue, PETITIONER deducted a capital loss of $$$$$ when determining his federal adjusted gross income for income tax purposes. The Division, however, did not add this $$$$$ back to PETITIONER's federal adjusted gross income when it determined that his "household income" was $$$$$. Instead, the Division only added back $$$$$ ($$$$$ minus $$$$$), which represents the Division's allowing capital losses of $$$$$ to be deducted from federal adjusted gross income when determining "household income." In *PETITIONER* 2016, the Utah Court of Appeals found that when the Tax Commission calculated PETITIONER's "household income" for the tax year at issue in that case, the Tax Commission erroneously added back only $$$$$ of capital losses, whereas the $$$$$ of capital losses that PETITIONER claimed should have been added back. More information is needed to know whether the $$$$$ of capital losses that the Division added back to PETITIONER's federal adjusted gross income to determine his "household income" in the instant case complies with *PETITIONER* 2016.

11. On PETITIONER's 2015 federal income tax return, he reported that his 2015 federal adjusted gross income ("FAGI") was $$$$$, which was comprised of the following:[7]

Type of Income	**Amount**
Qualified Dividends	$$$$$
Capital Loss	($$$$$)
Pensions and annuities	$$$$$
2015 FAGI	**$$$$$**

On the return, PETITIONER also reported that he had $$$$$ of Social Security benefits (none of which was subject to income taxation) and $$$$$ of tax-exempt interest income. Neither of these amounts were included in PETITIONER's 2015 FAGI.

12. On the Schedule D that accompanied PETITIONER's 2015 federal return, PETITIONER reported that he had total current year losses, total current year gains, and total capital loss carryovers, as follows:[8]

Capital Gain or Loss	**Amount**
Current Year Capital Losses	($$$$$)
Current Year Capital Gains	$$$$$
Capital Loss Carryovers	($$$$$)
Total	**($$$$$)**

7 Respondent's Formal Hearing Exhibit 5.
8 Respondent's Formal Hearing Exhibit 5.

Because the total losses of $$$$$ were in excess of $$$$$$, PETITIONER was limited to deducting a capital loss of $$$$$ when deriving his 2015 FAGI for income tax purposes.

13. On line 5 of his 2016 Form TC-90CB, PETITIONER deducted the entirety of the $$$$$ capital loss allowed for income tax purposes when determining his "household income" for property tax renter's credit purposes.

14. For purposes of deriving "household income" pursuant to Subsection 59-2-1202(5), Subsection 59-2-1202(6)(a)(i) defines "income" to mean the sum of FAGI plus "all nontaxable income as defined in Subsection (6)(b)[,]" while Subsection 59-10-136(6)(b)(ii) provides that "nontaxable income" means "amounts excluded from adjusted gross income under the Internal Revenue Code, including: . . . (ii) loss carry forwards claimed during the taxable year . . . ." The Division contends that it has complied with Subsection 59-2-1202(6)(b)(ii) by recalculating the Schedule D loss or gain after disregarding the $$$$$ capital loss carryover, as follow:

Capital Gain or Loss	**Amount**
Current Year Capital Losses	($$$$$)
Current Year Capital Gains	$$$$$
Capital Loss Carryovers	
Total	**($$$$$)**

As a result, on line 5 of PETITIONER's 2016 Form TC-90CB, the Division substituted a current year loss of $$$$$ for the $$$$$ loss that PETITIONER had deducted (which has the effect of adding $$$$$ ($$$$$ minus $$$$$) to PETITIONER's 2015 FAGI to account for the loss carry forward).

15. The Division's approach, however, is contrary to the Utah Court of Appeals' ruling in *PETITIONER* 2016, which addressed PETITIONER's application for a 2011 property tax renter's credit (based on 2010 income and rents). For purposes of deriving his 2010 FAGI for income tax purposes, PETITIONER had also deducted a $$$$$ capital loss, which was allowed based on his claiming the following:

Capital Gain or Loss		**Amount**
Current Year Capital Losses		($$$$$)
Current Year Capital Gains		$$$$$
Capital Loss Carryovers		($$$$$)
	Total	**($$$$$)**

Once the Division disregarded the PETITIONER of capital loss carryovers, the Division allowed a current year loss of $$$$$ (i.e., the sum of the $$$$$ current year loss and the $$$$$ current year gain). This had the effect of adding $$$$$ ($$$$$ minus $$$$$) to PETITIONER's 2010 FAGI to account for the loss carry forward.

16. The Court, however, stated that the "Commission erroneously calculated PETITIONER's loss carry forwards as $$$$$, not the $$$$$ he claimed" and that "PETITIONER's correct household income should be $$$$$, which is the sum of his $$$$$ [FAGI], $$$$$ in Social Security benefits, $$$$$ in nontaxable IRA distributions, and **$$$$$ claimed as loss carry forwards**" (emphasis added).[9] Under circumstances similar to those of the instant case, the Court ruled that the Commission should have added $$$$$$, not $$$$$, to PETITIONER's 2010 FAGI to account for the loss carry forwards. As a result, where PETITIONER's 2010 loss carryover of PETITIONER exceeded the $$$$$ capital loss with which he derived his 2010 FAGI, the Court appears to have considered the entire $$$$$ capital loss to be a loss carry forward that needed to be added to FAGI to determine "household income" for property tax renter's credit purposes.

17. Based on the Court's ruling in *PETITIONER* 2016, the Commission finds that the Division should have added $$$$$, not $$$$$, to PETITIONER's 2015 FAGI to account for loss carry forwards when deriving his "household income" for 2016 property tax renter's credit purposes (which has the effect of not allowing any current year capital loss or gain when deriving PETITIONER's "household income").

9 In its ruling, the Court noted that the Division "allowed a $$$$$ capital . . . current year loss[,]" but did not indicate how the Division calculated the $$$$$ current year loss. The Commission has obtained this information from PETITIONER's 2010 Schedule D, SENTENCE REMOVED.

18. Correcting this error would result in PETITIONER's "household income" for 2016 property tax renter's credit purposes being $$$$$, not the $$$$$ amount claimed by PETITIONER nor the $$$$$ amount determined by the Division in its Statutory Notice. The $$$$$ of "household income" is the sum of PETITIONER's 2015 FAGI of $$$$$, $$$$$ of nontaxable interest (pursuant to Subsection 59-2-1202(6)(b)(x)), $$$$$ of Social Security benefits (pursuant to Subsection 59-2-1202(6)(b)(viii)), and the $$$$$ claimed as loss carry forwards.[10]

19. Utah Code Ann. §59-2-1209(1)(a) (2016) provides specific ranges of household income eligibility amounts and the percentage of rent allowed as a property tax renter's credit for these different ranges of household income. In addition, Subsection 59-2-1209(1)(b) requires the Commission to adjust these household income eligibility amounts for calendar years subsequent to 2008. In the instructions accompanying the 2016 Form TC-90CB, the Tax Commission indicates that if an applicant's "household income" is in the range of $$$$$ to $$$$$, that applicant is entitled to receive a property tax renter's credit that is %%%%% of the applicant's "rent."[11] PETITIONER's "household income" of $$$$$ for the instant year is within this $$$$$ to $$$$$ range. In addition, PETITIONER (who has the burden of proof in this matter) did not argue that the Tax Commission has improperly adjusted the Subsection 59-2-1209(1)(a) household income eligibility amounts for any year subsequent to 2008. For these reasons, the Commission finds that PETITIONER is entitled to receive a 2016 property tax renter's credit that is %%%%% of his 2015 "rent."

20. On his 2016 Form TC-90CB, PETITIONER reported that he lived in three different apartments during 2015, for which he paid rental amounts of $$$$$ for the first apartment (gas and electricity not included), $$$$$ for the second apartment (gas and electricity not included), and $$$$$ for

10 Both parties agree that the $$$$$ of non-taxable interest and $$$$$ of Social Security benefits should be added to PETITIONER 2015 FAGI to derive his "household income" for 2016 property tax renter's credit purposes.

11 Respondent's Formal Hearing Exhibit 6.

the third apartment (gas but not electricity included).[12] The total rental amounts that PETITIONER paid for these three apartments is $$$$$ ($$$$$ plus $$$$$ plus $$$$$). However, the Division contends that Utah law does not provide that the "rent" to which the percentages listed in Subsection 59-2-1209(1)(a) are applied to calculate the property tax renter's credit is always equal to the rental amount paid.

21. Although "rent" is not defined in Title 59, Chapter 2, Part 12 of the Utah Code, "gross rent" is defined in Subsection 59-2-1202(2)(a) to mean "rental actually paid in cash or its equivalent solely for the right of occupancy, at arm's-length, of a residence, **exclusive of charges for any utilities**, services, furniture, furnishings, or personal appliances furnished by the landlord as a part of the rental agreement" (emphasis added). Because the $$$$$ rental amount that PETITIONER paid for the third apartment he rented in 2015 included gas, the Division contends that this rental amount must be reduced in order to determine his "rent" for purposes of Subsection 59-2-1209(1).[13] PETITIONER, who again has the burden of proof, did not argue that "rent," for purposes of Subsection 59-2-1209(1), should be defined differently than found in the Subsection 59-2-1202(2)(a) definition of "gross rent."

22. The Division admits that no statute or rule provides the method with which a rental amount that includes gas and/or electricity should be reduced to comply with Subsection 59-2-1202(2)(a). However, the Division indicated that the Tax Commission conducted a study years ago that indicated that the rental amount should be reduced %%%%% if the rental amount included either gas or electricity and %%%%% if the rental amount included both gas and electricity.[14] For the apartment that PETITIONER rented in 2015 whose rental rate included gas, reducing its $$$$$ rental amount by %%%%%would result in a "rent" of $$$$$. Adding this $$$$$ "rent" to the $$$$$ and $$$$$"rents" that PETITIONER paid

12 Respondent's Formal Hearing Exhibit 1.

13 Because the $$$$$ and $$$$$ rental amounts that PETITIONER paid for two of the apartments that he rented in 2015 did not include gas or electricity, the Division conceded that the entirety of these rental amounts would be considered "rent" for purposes of Subsection 59-2-1209(1).

14 The Division stated that the study is no longer available.

for the other two apartments where gas and electricity were not included would result in PETITIONER's total 2015 "rent" being $$$$$.

23. For reasons discussed earlier, PETITIONER is entitled to a 2016 property tax renter's credit that is %%%%% of his 2015 "rent." Multiplying %%%%% by $$$$$ equals $$$$$. Accordingly, the Commission finds that PETITIONER should receive a property tax renter's credit in the amount of $$$$$ for the 2016 tax year.[15]

APPLICABLE LAW

1. Utah Code Ann. §59-2-1209(1) (2016)[16] provided for a property tax renter's credit, as follows in pertinent part:

> (1) (a) Subject to Subsections (2) and (3), for a calendar year beginning on or after January 1, 2007, a claimant may claim a renter's credit for the previous calendar year that does not exceed the following amounts:
>
> | If household income is | Percentage of rent allowed as a credit |
> |---|---|
> | $17,772 — $9,159 | 9.5% |
> | $9,160 — $12,214 | 8.5% |
> | $12,215 — $15,266 | 7.0% |
> | $15,267 — $18,319 | 5.5% |
> | $18,320 — $21,374 | 4.0% |
> | $21,375 — $24,246 | 3.0% |
> | $24,247 — $26,941 | 2.5% |
>
> (b) (i) For a calendar year beginning on or after January 1, 2008, the commission shall increase or decrease the household income eligibility amounts under Subsection (1)(a) by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year 2006.[17]

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15 If PETITIONER "household income" had been $$$$$ (as argued by the Division), he would have been entitled to receive %%%%% of his "rent" as a property tax renter's credit, which would have resulted in a 2016 credit of $$$$$ (%%%%% times $$$$$). If PETITIONER" household income" had been $$$$$ (as argued by PETITIONER), he would have been entitled to receive 9.5% of his "rent" as a property tax renter's credit, which would have resulted in a 2016 credit of $$$$$ (9.5% times $$$$$).

16 All substantive law citations are to the 2016 version of Utah law, unless otherwise indicated.

17 Pursuant to Subsection 59-2-1209(1)(b)(i), the Commission has increased the household income eligibility amounts for the 2016 tax year, as follows (Respondent's Exhibit 6):

If household income is	Percentage of rent allowed as a credit
$0 — $10,826	9.5%
$10,827 — $14,437	8.5%

(ii) For purposes of Subsection (1)(b)(i), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

. . . .

For purposes of determining the property tax renter's credit, "gross rent," "household income," and "income" are defined in UCA §59-2-1202(5) and (6), as follows:

. . . .
(2) (a) "Gross rent" means rental actually paid in cash or its equivalent solely for the right of occupancy, at arm's-length, of a residence, exclusive of charges for any utilities, services, furniture, furnishings, or personal appliances furnished by the landlord as a part of the rental agreement.
(b) If a claimant occupies two or more residences in the year and does not own the residence as of the lien date, "gross rent" means the total rent paid for the residences during the one-year period for which the renter files a claim under this part.
. . . .
(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; or
(b) for purposes of the renter's credit authorized by this part, the year for which a claim is filed.
(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).
(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 or Part 18, Tax Deferral and Tax Abatement.
(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;

$14,438 — $18,045	7.0%
$18,046 — $21,654	5.5%
$21,655 — $25,265	4.0%
$25,266 — $28,659	3.0%
$28,660 — $31,845	2.5%

> (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 amount of "loss of time" insurance; and
> (xiii) voluntary contributions to a tax-deferred retirement plan.
>
> . . . .

4. UCA §59-2-1217 provides that "[a]ny 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."

5. For the instant matter, UCA §59-1-1417(1) (2019) provides guidance concerning which party has the burden of proof, as follows:

> (1) In a proceeding before the commission, the burden of proof is on the petitioner except for determining the following, in which the burden of proof is on the commission:
> (a) whether the petitioner committed fraud with intent to evade a tax, fee, or charge;
> (b) whether the petitioner is obligated as the transferee of property of the person that originally owes a liability or a preceding transferee, but not to show that the person that originally owes a liability is obligated for the liability; and
> (c) whether the petitioner is liable for an increase in a deficiency if the increase is asserted initially after a notice of deficiency is mailed in accordance with Section 59-1-1405 and a petition under Part 5, Petitions for Redetermination of Deficiencies, is filed, unless the increase in the deficiency is the result of a change or correction of federal taxable income:
> (i) required to be reported; and
> (ii) of which the commission has no notice at the time the commission mails the notice of deficiency.
>
> . . . .

CONCLUSIONS OF LAW

1. Pursuant to Subsection 59-1-1417(1), PETITIONER, as the Petitioner, has the burden of proof in this matter.

2. Subsection 59-2-1209(1)(a) provides that a claimant may claim a property tax renter's credit equal to a certain percentage of his "rent" that is based on certain household income eligibility

amounts. Pursuant to Subsections 59-2-1202(2), (5), and (6), for 2016 property tax renter's credit purposes, PETITIONER's "household income" is $$$$$, and his "rent" is $$$$$.

3. Based on the adjusted household income eligibility amounts that the Tax Commission has derived for the current year, PETITIONER's "household income" of $$$$$ qualifies him to receive a 2016 property tax renter's credit equal to %%%%% of his "rent". Accordingly, PETITIONER is entitled to receive a 2016 property tax renter's credit of $$$$$ (%%%%% times $$$$$).

_____

Kerry R. Chapman
Administrative Law Judge

DECISION AND ORDER

Based on the foregoing, the Commission finds that the amount of the 2016 property tax renter's credit to which PETITIONER is entitled is $$$$$. It is so ordered.

DATED this _____ day of _____, 2019.

John L. Valentine
Commission Chair

Michael J. Cragun
Commissioner

Rebecca L. Rockwell
Commissioner

Lawrence C. Walters
Commissioner

Notice of Appeal Rights: You have twenty (20) days after the date of this order to file a Request for Reconsideration with the Tax Commission Appeals Unit in accordance with Utah Code Ann. §63G-4-302. A Request for Reconsideration must allege newly discovered evidence or a mistake of law or fact. If you do not file a Request for Reconsideration with the Commission, this order constitutes final agency action. You have thirty (30) days after the date of this order to pursue judicial review of this order in accordance with Utah Code Ann. §§59-1-601 and 63G-4-401 et. seq.