

19-1102
TAX TYPE: CIRCUIT BREAKER TAX RELIEF
TAX YEAR: 2019
DATE SIGNED: 11/25/2019
COMMISSIONERS: M. CRAGUN, R. ROCKWELL, L. WALTERS
EXCUSED: J. VALENTINE
GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

<p>PETITIONER-1 & PETITIONER-2, Petitioners, v. BOARD OF EQUALIZATION OF COUNTY, STATE OF UTAH, Respondent.</p>	<p>INITIAL HEARING ORDER</p> <p>Appeal No. 19-1102</p> <p>Tax Type: Circuit Breaker Tax Relief Tax Year: 2019</p> <p>Judge: Phan</p>
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Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER-1
For Respondent: REPRESENTATIVE FOR RESPONDENT, Deputy COUNTY
Attorney
RESPONDENT, Tax Administration Davis County

STATEMENT OF THE CASE

Petitioners (“Property Owners”) bring this appeal from the decision of the Respondent (“County”) under Utah Code §59-2-1217. This matter was argued in an Initial Hearing on DATE, 2019, in accordance with Utah Code §59-1-502.5. The Property Owners are appealing the decision of Respondent (“County”) in which the County denied the Property Owners’ 2019 Application for Low Income Circuit Breaker Tax Relief. The County’s denial letter was issued on DATE, 2019, and the Property Owners timely appealed that denial to the Utah State Tax Commission. The County had denied the circuit breaker tax relief on the basis that the Property Owners’ household income exceeded the limit for 2019.

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.

(b) Notwithstanding Subsection (1)(a), "claimant" includes a surviving spouse: (i) regardless of: (A) the age of the surviving spouse; or (B) the age of the deceased spouse at the time of death; (ii) if the surviving spouse meets the requirements of this part except for the age requirement; (iii) if the surviving spouse is part of the same household of the deceased spouse at the time of death of the deceased spouse; and (iv) if the surviving spouse is unmarried at the time the surviving spouse filed the claim.

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) addresses "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 submitted to COUNTY 2019 Circuit Breaker Abatement Application on or around DATE, 2019. After reviewing the application and the Property Owners' 2018 federal income tax information, the County determined that the Property Owners did not qualify for the property tax relief because their "household income" was \$\$\$\$\$, which exceeded the circuit breaker income limit for 2019. The limit for the 2019 circuit breaker property tax relief was \$\$\$\$\$.

To determine the Property Owners' "household income" the County added the Property Owners' 2018¹ Social Security income as reported on their 1099-SSAs, which was a combined income of \$\$\$\$\$, to their 2018 W-2 wage income of \$\$\$\$\$. This resulted in \$\$\$\$\$ in household income. There was no other income reported by the Property Owners on their application.

At the hearing, the Property Owner did not dispute that he and PETITIONER-2 1099-SSAs indicated a combined total of \$\$\$\$\$ on Box 3, Benefits Paid. However, he argued that for purposes of determining whether or not they qualified for the property tax relief, the County should have

¹ To determine if they qualified for the circuit breaker property tax relief for tax year 2019, "household income" is determined from their 2018 calendar year income and 2018 federal individual income tax filings under Subsection 59-2-1202(5).

subtracted the Medicare Premiums which were deducted from their social security. If the Medicare Premiums were deducted from the total benefits reported, this amount would be \$\$\$\$\$. The \$\$\$\$\$ in wage income added to \$\$\$\$\$ equaled \$\$\$\$\$, which was lower than the income limit of \$\$\$\$\$. The Property Owner also proffered at the hearing that they had significant financial hardship due to medical expenses that they were incurring and they were not able to pay their property taxes.

It was the County's position that the Property Owners did not qualify for the circuit breaker property tax relief because their "household income" as defined under Utah Code Sec. 59-2-1202 exceeded the limit for obtaining the relief, which was \$\$\$\$\$ for the 2019 year. As noted by the County, Utah Code Subsection 59-2-1202(5) provides that "household income" is all "income." Utah Code Subsection 59-2-1202(6) defines "income" to be 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). The nontaxable income defined in Subsection (6)(b) includes "(viii) payments received under the Social Security Act" among other amounts. At the hearing the County's representative explained that when adding the payments received under the Social Security Act, the County always used the amount stated on the 1099-SSA as "Benefits Paid" and did not subtract out from that any Medicare Premiums deducted.

Upon review of the Property Owners' argument, this does appear to be the first time the Tax Commission has considered what is meant as "payments received under the Social Security Act" for purposes of Utah Code Subsection 59-2-1202(6)(b)(viii). The County's position is clearly consistent with general tax reporting practices and there is no indication other counties calculate the household income in a different manner. When wages are reported on a W-2, the gross amount is reported and it is the gross amount that flows through on the individual income tax forms into federal adjusted gross income, regardless of any amount withheld for health insurance premiums or taxes for that matter. The same would be said for Social Security benefits. It is the total benefits amount that is listed on "Line 5a Social Security Benefits" on the Federal Individual Income Tax Return.

However, when looking at the statutory language of Subsection 59-2-1202(6)(b) for some of the nontaxable income items listed, the legislature is clear that it is the gross amount or an amount claimed on a tax return that is included in the household income. For example, Subsection (6)(b)(vii) states "the gross amount of a pension or annuity" is included in the household income, or (xii) "the gross amounts of 'loss of time' insurance" is included. Subsection (6)(b)(ii) refers to amounts claimed on a tax return indicating "loss carry forwards claimed during the taxable year . . ." Other subsections do not specify if it is the amounts received, the gross amounts or amounts claimed on a return. For example, the following Subsections in (6)(b) do not specify, stating only

that they are included in household income as follows: “(v) nontaxable strike benefits;” “(vi) cash public assistance or relief;” and “(ix) state unemployment insurance amounts.” Only two of the Subsections in (6)(b) contain the qualifier “received.” Subsection (6)(b)(viii) says, “payments received under the Social Security Act” and Subsection (6)(b)(x) says “nontaxable interest received from any source.”

Looking to the 1099-SSA, however, it does appear that the federal government considered the total “Benefits Paid” to the recipient to include the portion deducted for Medicare Premiums. On Form 1099-SSA, “Box 3. Benefits Paid” lists the total gross amount, which was the amount the County uses to determine household income. There is a “Box 4. Benefits Repaid to SSA in 2018” and a “Box 5 Net Benefits for 2018,” however, Box 5 is the amount of Box 3 minus the amount in Box 4. The “Box 5 Net Benefits” include all of the amounts deducted for Medicare Premiums, so in this matter on the Property Owners’ 1099-SSA’s, Box 5 was the same as Box 3. The 1099-SSA does provide a “Description of Amount in Box 3” which shows the portion “paid by check or direct deposit” as well as the portion deducted from the benefits to pay the Medicare Premiums with the total including both amounts. The recipient is receiving the total, some in the form of check or direct deposit and some in the form of Medicare Premiums. Based on this it is appropriate to conclude the Property Owners did receive the total Social Security Benefits and the County correctly used the total Social Security Benefits in determining the Property Owners’ household income.

Adding the Social Security Benefits paid as stated on the 1099-SSA does put the Property Owners over the limit for the “household income,” so that they do not qualify for the property tax relief.² There are no provisions under the law to allow an exception to the household income limit due to financial hardship or medical expenses. Based on the information submitted by the parties, the County’s denial of the circuit breaker property tax relief should be sustained.

Jane Phan
Administrative Law Judge

DECISION AND ORDER

² It would not matter if a “claimant” was just a few dollars over the limit. The Tax Commission has considered the law where property owners were only a few dollars over the limit in previous decisions and concluded they did not qualify based on the statutory provisions. See *Utah State Tax Commission Findings of Fact, Conclusions of Law and Final Decision, Appeal No. 15-460 (5/9/2016)*; *Utah State Tax Commission Initial Hearing Orders Appeal No. 15-2092 (5/9/2016)*; *Appeal No. 16-1310 (2/21/2017)*; *Appeal No. 16-1565 (4/10/2017)*; and *Appeal No. 17-2036 (8/14/2018)*. These decisions are available for review in a redacted format at tax.utah.gov/commission-office/decisions.

Based on the foregoing, the Tax Commission denies the Property Owners' appeal of the County's decision regarding their 2019 application for circuit breaker property tax relief. 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 _____, 2019.

John L. Valentine
Commission Chair

Michael J. Cragun
Commissioner

Rebecca L. Rockwell
Commissioner

Lawrence C. Walters
Commissioner