

19-1617

TAX TYPE: CIRCUIT BREAKER

TAX YEAR: 2019

DATE SIGNED: 1/29/2020

COMMISSIONERS: J. VALENTINE, M. CRAGUN, R. ROCKWELL, L. WALTERS

GUIDING DECISION:

BEFORE THE UTAH STATE TAX COMMISSION

PROPERTY OWNER,	INITIAL HEARING ORDER
Petitioner,	Appeal No. 19-1617
v.	Tax Type: Circuit Breaker Property Tax Relief
BOARD OF EQUALIZATION OF COUNTY, STATE OF UTAH,	Tax Year: 2019
Respondent.	Judge: Phan

Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PROPERTY OWNER

For Respondent: REPRESENTATIVE FOR COUNTY, COUNTY Tax
Administration

STATEMENT OF THE CASE

This matter was argued in an Initial Hearing on DATE, 2019, in accordance with Utah Code Ann. §59-1-502.5. Petitioner (“Property Owner”) brings this appeal from the decision of the Respondent (“County”) under Utah Code §59-2-1217 in which the County denied the Property Owner’s 2019 Application for “Circuit Breaker Abatement,” which is property tax relief for certain low income individuals. The County’s denial was issued on DATE, 2019, and the Property Owner timely appealed that denial to the Utah State Tax Commission. The County had denied the low income property tax relief on the basis that the Property Owner had failed to provide the income of another individual the County concluded resided at the subject property.

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 the "household income" from all members of the "household." The law specifically defines "household," "household income" and "income" at Utah Code Subsections 59-2-1202(4) (5) & (6) as follows:

(4) "Household" means the association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses.

(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

On DATE, 2019, the Property Owner submitted to COUNTY 2019 Home & Mobile Home Tax Relief Application. On that application, in Section 1, the Property Owner had listed himself as the applicant but on the line that requests the name of the applicant’s spouse, he left that line blank. On Section 4 of that form, it asks the applicant to “List all persons living in home including yourself as of DATE, 2019.” In this section, the Property Owner listed only himself. Section 5 asks for the household income and says, “include all income of all members of the

household” The Property Owner listed only his own income and not the income of his spouse. He did provide a copy of his 2018 Federal Income Tax Return,¹ on which he had claimed the filing status of “Married Filing Separate.”

In its review of the application, the County Treasurer looked at State Records and determined that another individual was living at the subject residence. That individual was NAME-1. The County requested the Property Owner to provide the income information of NAME-1 to determine the actual “household income.” Based on Utah Code Sec. 59-2-1202 “household income” means, “*all* income received by *all* persons of a household” (emphasis added). The Property Owner did not provide the information the County Treasurer requested for NAME-1 and the County denied the property tax relief by letter dated DATE, 2019.

At the hearing, the Property Owner proffered that NAME-1 was a tenant that he allowed to reside in the separate basement apartment unit in the residence. The property had a mother-in-law suite, which he had finished in the basement originally to accommodate his aging parents who are now deceased. He said NAME-1 paid him \$\$\$\$ per month, which was all she could afford, and if he had not let her stay there she would have been homeless. She has since moved from the apartment and he did not know how to contact her to get her financial information as requested by the County.

During the hearing, NAME-1’s income was no longer the issue. The Property Owner had a spouse, NAME-2, whom he had not disclosed on the Property Tax Relief Application form. The Property Owner acknowledged at the hearing that they had been married several years and she lived with him at the property and had been residing there by DATE, 2019, but he had not included her income on the application as part of the “household income.” The County had calculated that the income attributable to just the Property Owner based on his social security and married filing separate income tax return was \$\$\$\$\$. The “household income” limit for the property tax relief for 2019 was \$\$\$\$\$, so if the “household income” was over that amount the applicant does not qualify for the relief. NAME-2 was employed and a W-2 indicated that she had received \$\$\$\$\$ in wages in the information provided by the County. Adding her income to the Property Owner’s, their “household income” was over the limit for the property tax relief.

The Property Owner stated that he did not include NAME-2’s income because she gave all her income to her children and family whom she supported in FOREIGN COUNTRY. He says

¹ To determine if an applicant qualified for the circuit breaker property tax relief for tax year 2019, “household income” is determined from the 2018 calendar year income and 2018 federal individual income tax filings under Subsection 59-2-1202(5) of all members of the household.

he never saw any of her income and filed a separate tax return from her. It was his contention that her income should not be considered because she did not pay any of the expenses.

After reviewing the facts and the law in this matter, the County has properly denied the Property Owner's request for low income property tax relief because the Property Owner's "household income" as defined by Utah Code Subsection 59-2-1202(5) is "all income received by all persons" in the household.² Based on Utah Code Subsection 59-2-1202(4), NAME-2 was a person in the "household." She was residing in the dwelling and sharing its furnishings, facilities, accommodations, and expenses, which does not require an equal division of expenses. The fact that they have organized their income and expenses in the manner proffered by the Property Owner at the hearing, does not excuse NAME-2's income from being considered in calculating the "household income" for purposes of this property tax relief.

Jane Phan
Administrative Law Judge

DECISION AND ORDER

Based on the foregoing, the Tax Commission denies the Property Owner's appeal of the County's decision regarding his 2019 application for low income 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

² See *Utah State Tax Commission Initial Hearing Order Appeal No. 15-492 (12/9/15)*. This and other Tax Commission decisions are available for review in a redacted format at tax.utah.gov/commission-office/decisions.

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

DATED this _____ day of _____, 2020.

John L. Valentine
Commission Chair

Michael J. Cragun
Commissioner

Rebecca L. Rockwell
Commissioner

Lawrence C. Walters
Commissioner