

APPEAL #: 22-1564
TAX TYPE: CIRCUIT BREAKER TAX RELIEF
TAX YEAR: 2022
DATE SIGNED: 4/11/2023
COMMISSIONERS: J.VALENTINE, M.CRAGUN, R.ROCKWELL, AND J.FRESQUES

BEFORE THE UTAH STATE TAX COMMISSION

<p>PROPERTY OWNERS, Petitioners, v. COUNTY-1 CLERK/AUDITOR, STATE OF UTAH, Respondent.</p>	<p>INITIAL HEARING ORDER</p> <p>Appeal No. 22-1564 Parcel No: ##### Tax Type: Circuit Breaker Tax Relief Tax Year: 2022 Judge: Phan</p>
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Presiding:
Jane Phan, Administrative Law Judge

Appearances:
For Petitioner: PROPERTY OWNER-1
PROPERTY OWNER-2
For Respondent: RESPONDENT'S REP-1, Chief Deputy Clerk/Auditor, COUNTY-1
RESPONDENT'S REP-2, Public Services Manager, COUNTY-1
RESPONDENT'S REP-3, Tax Relief Specialist, COUNTY-1

STATEMENT OF THE CASE

Petitioners (“Property Owners”) bring this appeal from the decision of the COUNTY-1 Clerk/Auditor’s Office (“the County”) pursuant to Utah Code §59-2-1217. The decision being appealed is the County’s denial of circuit breaker tax relief for tax year 2022. The County’s decision was issued on DATE. This matter was argued in an Initial Hearing on DATE in accordance with Utah Code §59-1-502.5.

APPLICABLE LAW

Utah Code Ann. §59-2-103(2) provides for the assessment of property, as follows:

All tangible taxable property located within the state shall be assessed and taxed at a uniform and equal rate on the basis of its fair market value, as valued on January 1, unless otherwise provided by law.

However, various exemptions, abatements, and tax relief are provided in the Property Tax Act. Part 12 of the Property Tax Act provides circuit breaker tax relief under Utah Code Ann. §59-2-1208 as follows:

(1)(a) Subject to Subsections (2) and (4), for a calendar year beginning on or after January 1, 2021, a claimant may claim a homeowner's credit that does not exceed the following amounts:

If household income is	Homeowner's credit
\$0 -- \$11,785	\$1,027
\$11,786 -- \$15,716	\$896
\$15,717 -- \$19,643	\$768
\$19,644 -- \$23,572	\$575
\$23,573 -- \$27,503	\$448
\$27,504 -- \$31,198	\$256
\$31,199 -- \$34,666	\$126

(b) For a calendar year beginning on or after January 1, 2022, the commission shall increase or decrease the household income eligibility amounts and the credits under Subsection (1)(a) by a percentage equal to the percentage difference between the consumer price index housing for the preceding calendar year and the consumer price index housing for calendar year 2020.

Utah Code Ann. §59-2-1202(1) defines “claimant” as the following:

- (a) “Claimant” means a homeowner or renter who:
 - (i) has filed a claim under this part for a residence;
 - (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) 66 years of age or older if the individual was born on or before December 31, 1959; or
 - (B) 67 years of age or older if the individual 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.

To qualify for circuit breaker tax relief “household income” must be less than a stated amount described in Utah Code Ann. §59-2-1208 and is based on income from the preceding calendar year. The amount is subject to adjustment from year to year based on the consumer price index. In order to qualify for circuit breaker tax relief for the 2022 tax year, the applicant’s 2021 “household income” could be no greater than \$35,807. “Household income” and “income” are defined in Utah Code Ann. §59-2-1202 (6), (7), and (8) as follows:

- (6) “Household” means the association of individuals who live in the same dwelling, sharing the dwelling’s furnishings, facilities, accommodations, and expenses.
- (7)(a) Except as provided in Subsection (7)(b), "household income" means all income received by all members of a claimant's household in:
 - (i) for a claimant who owns a residence, the calendar year preceding the calendar year in which property taxes are due; or
 - (ii) for a claimant who rents a residence, the year for which a claim is filed.
- (b) "Household income" does not include income received by a member of a claimant's household who is:
 - (i) under the age of 18; or
 - (ii) a parent or a grandparent, through blood, marriage, or adoption, of the claimant or the claimant's spouse.
- (8)(a) “Income” means the sum of:
 - (i) federal adjusted gross income as defined in Section 62, Internal Revenue Code; and
 - (ii) nontaxable income.
- (b) "Income" does not include:
 - (i) aid, assistance, or contributions from a tax-exempt nongovernmental source;
 - (ii) surplus foods;
 - (iii) relief in kind supplied by a public or private agency;
 - (iv) relief provided under this part or Part 18, Tax Deferral and Tax Abatement; or
 - (v) Social Security Disability Income payments received under the Social Security Act.
- (9) "Nontaxable income" means amounts excluded from adjusted gross income under the Internal Revenue Code, including:
 - (a) capital gains;
 - (b) loss carry forwards claimed during the taxable year in which a claimant files for relief under this part or Part 18, Tax Deferral and Tax Abatement;

- (c) depreciation claimed pursuant to the Internal Revenue Code by a claimant on the residence for which the claimant files for relief under this part or Part 18, Tax Deferral and Tax Abatement;
- (d) support money received;
- (e) nontaxable strike benefits;
- (f) cash public assistance or relief;
- (g) 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;
- (h) except for payments described in Subsection (8)(b)(v), payments received under the Social Security Act;
- (i) state unemployment insurance amounts;
- (j) nontaxable interest received from any source;
- (k) workers' compensation;
- (l) the gross amount of "loss of time" insurance; and
- (m) voluntary contributions to a tax-deferred retirement plan..

Property owners have the right to appeal decisions of the county regarding circuit breaker tax relief set out in Part 12 of the Property Tax Act as described in Utah Code Ann. §59-2-1217, which states:

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.

DISCUSSION

The Property Owners timely filed an application with the County for circuit breaker tax relief on their residence for the 2022 tax year. The Property Owners resided at the residence in question for all of the relevant periods and that was where they were domiciled. The Property Owners were ages ##### and ##### respectively and they were the only persons residing in the residence in question. The County did not dispute that the Property Owners met the criteria to be “claimants” for purposes of Utah Code Ann. §59-2-1202(1). However, the County denied the property tax relief based on the finding that the Property Owners’ “household income” was over the limit provided at Utah Code §59-2-1208. Based on Utah Code Sec. 59-2-1208, in order to qualify for circuit breaker property tax relief for the 2022 tax year, a claimant’s 2021 “household income” could be no greater than \$35,807.

The County had determined the Property Owners’ “household income” was \$\$\$\$\$, and over the limit of \$35,807. The County explained at the hearing how they had calculated the “household income” pursuant to the provisions of Utah Code §59-2-1202. Utah Code §59-2-1202(8) requires that the income be calculated based on federal adjusted gross income plus nontaxable income including nontaxable Social Security payments. Because the Property

Owners' "household income" was over the limit, the County denied the circuit breaker property tax relief.

The Property Owners did not dispute the "household income" calculated by the County, but instead pointed out that their income was only \$\$\$\$ over the limit. They explained that the property taxes are a huge burden for them financially and that they have a number of issues with their residence that need to be repaired at considerable expense. The Property Owners explained that, for example, the furnace and sump pumps need to be replaced. They stated that they now wished that they had made \$\$\$\$ less in income. They also stated that when the County denied the circuit breaker tax relief, someone at the County offices had suggested to the Property Owners that they should file an appeal to the Utah State Tax Commission because they were so near the income limit.

The County's representative pointed out the tiered nature of circuit breaker tax relief to explain to the Property Owners that had they made \$\$\$\$ less in income so that their household income was within the limit, the amount of tax relief would have only been \$\$\$\$ for tax year 2022. The County explained that the income limits and credit amounts could be adjusted for tax year 2023 and suggested that the Property Owners apply for 2023 to see if they qualify.

Upon reviewing the applicable law and the information presented in this matter, the Tax Commission must uphold the County's decision to deny the circuit breaker tax relief. The Property Owners were over the "household income" limit and, therefore, not eligible to receive the tax relief for tax year 2022. The statutory provisions are specific as to who may qualify for this circuit breaker tax relief, including the requirement that the "household income" is below a threshold level. "Household income" is defined by statute at Utah Code Subsection 59-2-1202(7), and Utah Code Subsection 59-2-1202(8)(a) defines "income" to be the sum of federal adjusted gross income as defined in Section 62, Internal Revenue Code, and nontaxable income as defined in Subsection (8)(b). "Nontaxable income" as defined in Subsection (8)(b) includes amounts excluded from federal adjusted gross income under the Internal Revenue Code, such as payments received under the Social Security Act. Therefore, it was appropriate for the County to add the Property Owners' nontaxable Social Security payments to their federal adjusted gross income.

Regardless that the Property Owners were only \$\$\$\$ over the limit for "household income," they did not qualify for the tax relief as there are no provisions in the statutes or rules that allow tax relief to be granted if income exceeds the maximum income threshold allowed by statute. As noted in many prior cases, the Tax Commission does not have statutory discretion to

allow tax relief where a claimant does not meet the express provisions of the statute. Furthermore, the Tax Commission has heard a number of appeals where the claimant was only a few dollars over the threshold income level and determined it was required to deny those property owners tax relief because the statutory provisions for tax relief are clear as to who qualifies for the relief and do not provide the Tax Commission discretion to grant exceptions to those provisions.¹

After review of the facts presented at the hearing and the applicable law, the County has properly denied the circuit breaker tax relief in this matter and the Property Owners' appeal should be denied.

Jane Phan
Administrative Law Judge

DECISION AND ORDER

Based on the foregoing the Tax Commission denies the Property Owners' appeal of the County's decision regarding the 2022 application for circuit breaker 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

¹ The Tax Commission has considered several appeals where the property owners were only a few dollars over the household income limit 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 and other Tax Commission's decisions are available for review in a redacted format at tax.utah.gov/commission-office/decisions.

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

DATED this _____ day of _____, 2023.

John L. Valentine
Commission Chair

Michael J. Cragun
Commissioner

Rebecca L. Rockwell
Commissioner

Jennifer N. Fresques
Commissioner