

APPEAL #:23-48

TAX TYPE: CIRCUIT BREAKER TAX RELIEF

TAX YEAR: 2022

DATE SIGNED: 9/7/2023

COMMISSIONERS: J.VALENTINE, M.CRAGUN, R.ROCKWELL, AND J.FRESQUES

BEFORE THE UTAH STATE TAX COMMISSION

PROPERTY OWNER, Petitioner, v. TAX ADMINISTRATION, COUNTY-1, STATE OF UTAH, Respondent.	ORDER DISMISSING APPEAL Appeal No. 23-48 Parcel No: ##### Tax Type: Circuit Breaker Tax Relief Tax Year: 2022 Judge: Phan
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Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PROPERTY OWNER

For Respondent: RESPONDENT'S REP-1, Tax Relief, COUNTY-1

STATEMENT OF THE CASE

Petitioner ("Property Owner") brings this appeal from the decision of the Respondent ("County"), in which the County denied her late application for property tax relief. This matter was argued in a Hearing on County's Denial on DATE. The Property Owner had not filed with the County the required application for tax relief for tax year 2022, before the September 1, 2022 application deadline as required by statute. The County had issued its decision letter denying the Property Owner's Application for Tax Relief on DATE, on the basis that the Property Owner had submitted her application late. The Property Owner timely appealed the County's decision to the Utah State Tax Commission and the matter proceeded to this hearing.

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 . . .

The law requires a property owner to file an application for circuit breaker tax relief each year, at Utah Code §59-2-1206(1), as follows:

- (a) A claimant applying for a homeowner's credit shall file annually an application for the credit with the county in which the residence for which the claimant is seeking a homeowner's credit is located before September 1.
- (b) The application under this section shall:
 - (i) be on forms provided by the county that meet the requirements of Section 59-2-1211; and
 - (ii) include a household income statement signed by the claimant . . .

Property owners have a limited right to appeal decisions of the county regarding circuit breaker tax relief as set out at Utah Code §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.

Utah Code Sec. 59-2-1220 provides that an extension of the deadline to file the application may be allowed as follows:

- (1) The commission or a county may extend the time for filing an application until December 31 of the year the application is required to be filed, if the commission or county finds that good cause exists to extend the deadline.
- (2) (a) For purposes of this Subsection (2):
 - (i) "Abatement" means the amount of property taxes accrued that constitutes a tax abatement for the poor in accordance with Subsection 59-2-1202(10).
 - (ii) "Credit" means a homeowner's credit or renter's credit authorized by this part.
 - (iii) "Property taxes due" means the taxes due on a claimant's property: (A) for which the county or the commission grants an abatement or a credit; and (B) for the calendar year for which the abatement or credit is granted.

- (iv) "Property taxes paid" is an amount equal to the sum of: (A) the amount of the property taxes paid for the taxable year for which the claimant is applying for the abatement or credit; and (B) the amount of the abatement or credit the county or the commission grants.
- (b) A county or the commission granting an abatement or a credit to a claimant shall refund to that claimant an amount equal to the amount by which the claimant's property taxes paid exceed the claimant's property taxes due, if that amount is \$1 or more.

For purposes of circuit breaker tax relief Utah Code §59-2-1202(1) defines "claimant" as:¹

- (a) "Claimant" means a homeowner or renter who:
 - (i) files 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.

DISCUSSION

The County provided a copy of the "2022 Tax Relief Application" submitted by the Property Owner, which was date stamped as "received" by the COUNTY-1 Clerk/Auditor on DATE. The County's representative at the hearing stated that although the Property Owner submitted the application form on that date, she did not provide with the form income verification documents and she had not submitted the Late Petition form, which requests an explanation of the reasons why the appeal was late. The County sent the Property Owner a Notice dated DATE, which was titled "COUNTY-1 Tax Relief Program Missing Information Follow-up." The DATE, letter informed the Property Owner that she needed to provide the missing information within 10

¹ The Property Owner was under the age of ##### for the tax year at issue, but she was requesting the tax relief as "a surviving spouse" under this section.

business days from the date of the letter. The County pointed out that the Property Owner did not respond within that time period and the County then issued its decision letter denying the tax relief due to the late filing on DATE. The County's representative stated that the Property Owner then sent in her income verification and a Late Petition form on DATE, but at that point the County's decision had already been issued.

The Property Owner explained at the hearing that she had gotten sick at the end of September and was sick through the first of December. She said that she saw the doctor several times during this period, but the doctor was not able to help. She acknowledged that she had not been hospitalized during this time period, but she was concerned about her health and was sick, and that was the reason she did not respond to the County's DATE request for more information within the 10 business day period. The Property Owner did provide some documentation of an injury. She provided a patient summary statement indicating she had a doctor visit on DATE, for a work related fall. The Property Owner did not provide documentation, nor did she assert that she had a medical emergency during the weeks or days leading up to September 1, 2022, the due date of the 2022 Tax Relief Application. In her explanation, the sickness occurred after the due date of the application.

After reviewing the appeal submissions presented by the parties and the applicable law, the Tax Commission is required to dismiss the Property Owner's appeal regarding the denial of circuit breaker tax relief due to the late filing of the application. The law is clear at Utah Code Subsection 59-2-1206(1) that in order to receive this relief a property owner must file the application before September 1. It is also clear at Utah Code Sec. 59-2-1217 that "when the denial is based upon late filing of claim for relief" the Utah State Tax Commission lacks jurisdiction to hear the appeal. Therefore, the appeal regarding circuit breaker tax relief is not properly before the Tax Commission and must be dismissed.

Jane Phan
Administrative Law Judge

ORDER

Based on the foregoing, the Utah State Tax Commission hereby dismisses the Property Owner's appeal of the County's denial regarding circuit breaker tax relief. It is so ordered.

DATED this _____ day of _____, 2023.

John L. Valentine
Commission Chair

Michael J. Cragun
Commissioner

Rebecca L. Rockwell
Commissioner

Jennifer N. Fresques
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 pursuant to 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 et seq. and §63G-4-401 et seq.