

17-2036
TAX TYPE: CIRCUIT BREAKER TAX
TAX YEAR: 2017
DATE SIGNED: 08/14/2018
COMMISSIONERS: J. VALENTINE, M. CRAGUN, R. ROCKWELL
EXCUSED: R. PERO
GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

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| PETITIONER, Petitioner, v. BOARD OF EQUALIZATION OF COUNTY, STATE OF UTAH, Respondent. | INITIAL HEARING ORDER Appeal No. 17-2036 Tax Type: Circuit Breaker Tax Exemption Tax Year: 2017 Judge: Phan |
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Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER
For Respondent: RESPONDENT, COUNTY Auditor

STATEMENT OF THE CASE

Petitioner (“Property Owner”) brings this appeal from the decision of the COUNTY Board of Equalization (“County”) under Utah Code §59-2-1217 in which the County denied the Property Owner the homeowner’s circuit breaker property tax relief for the 2017 tax year. This matter was argued before the Utah State Tax Commission in an Initial Hearing on April 23, 2018, in accordance with Utah Code §59-1-502.5.

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.

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) provides that it is the number of persons residing in the household as of January 1 that constitutes “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 Owner had timely filed an application to the County for the 2017 circuit breaker property tax relief for the tax assessment on his residence. The County denied the circuit breaker property tax relief for the 2017 tax year because the Property Owner’s “household income,” as defined by Utah Code Subsections 59-2-1202(5)&(6), exceeded the income limit for the 2017 tax year. In order to qualify for this property tax relief in 2017, the “household income” limit was \$\$\$\$\$. For purposes of determining eligibility for the property tax relief, “household income” is based on the 2016 income and it includes the income of every member in the household. In this appeal, the County found that the Property Owner and his wife’s “household income” under Utah Code Subsections 59-2-1202(5)&(6) was \$\$\$\$\$, which was over the maximum limit allowed.

The Property Owner explained that they had some additional hardships because of medical bills and his son had filed for disability and was not yet receiving payments. He also stated that his daughter and grandson were living with them and she did not pay any rent. He stated that she moved into the house in November 2017.¹ He explained that he and his wife had been living in the house for 18 years and this was the only year that they were asking for this property tax relief.

The representative for the County explained that because the Property Owner’s household income was more than \$\$\$\$\$ over the limit, the County felt it was required to deny the request. He provided a redacted copy of a prior Tax Commission decision, *Findings of Fact*,

¹ Regardless of whether or not the daughter was paying rent, if the Property Owner’s daughter becomes a member of the “household” as used in Utah Code Subsection 59-2-1202(5) and defined at Utah Admin. Rule R865-9I-34(A), her income, if any, would also need to be included in the calculation of “household income.”

*Conclusions of Law, and Final Decision, Appeal No. 15-460 (1/19/16)*² in which the Commission had concluded at page 5:

There are no provisions under Utah Code Sec. 59-2-1201 . . . that would allow the County Board or the Tax Commission to differ from the statutory formula for “household income” set out at Utah Code Sec. 59-2-1202 based on hardship. This is a mathematical formula that has been correctly calculated by the County pursuant to the law and the Property Owner does not qualify for the circuit breaker tax relief based on the express provision of the law.”

The Tax Commission has considered appeals from a number of counties on the circuit breaker property tax relief provisions and has uniformly held that property owners over the “household income” limit do not qualify for the tax relief based on the express provisions of the law.³ The County is correct that the Property Owner did not qualify for circuit breaker property tax relief, as his “household income” is too high to qualify under Utah Code Sec. 59-2-1208. There are no provisions in the law that provides the Tax Commission discretion to allow this credit where the “household income” is over the statutory limit.

Jane Phan
Administrative Law Judge

DECISION AND ORDER

Based on the foregoing, the Commission denies the Property Owner’s appeal of the County’s decision regarding circuit breaker property tax relief for the 2017 tax year. 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

² This and other Tax Commission decisions are published in a redacted format at tax.utah.gov/commission-office/decisions.

³ See *Utah State Tax Commission Findings of Fact, Conclusions of Law and Final Decision, Appeal No. 15-290 (2/26/18) & Appeal No. 16-1718 (8/16/17); Initial Hearing Orders Appeal No. 15-2092 (5/9/16) and Appeal No. 16-1310 (2/21/17)*.

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 _____, 2018.

John L. Valentine
Commission Chair

Michael J. Cragun
Commissioner

Robert P. Pero
Commissioner

Rebecca L. Rockwell
Commissioner