APPEAL # 24-1943
TAX TYPE: HOMEOWNERS CREDIT
TAX YEAR: 2024
DATE SIGNED: 8/12/2026
COMMISSIONERS: J.VALENTINE, R.ROCKWELL, J.FRESQUES, AND J.DEEDS

BEFORE THE UTAH STATE TAX COMMISSION

PROPERTY OWNER, Petitioner, v. COUNTY-1 COUNCIL - TAX ADMINISTRATION, STATE OF UTAH, Respondent.	**INITIAL HEARING ORDER** Appeal No. 24-1943 Parcel No: ##### Tax Type: Homeowner's Credit Tax Year: 2024 Judge: Phan

Presiding:
Jane Phan, Administrative Law Judge

Appearances:
For Petitioner: PROPERTY OWNER, Taxpayer
For Respondent: RESPONDENT'S REP-1, Tax Relief and Deferral Coordinator, COUNTY-1

STATEMENT OF THE CASE

Petitioner ("Property Owner") brings this appeal from the decision of the COUNTY-1 Council - Tax Administration ("County") under Utah Code Ann. §59-2-1217. This matter was argued in an Initial Hearing on December 15, 2025, in accordance with Utah Code §59-1-502.5. Petitioner is appealing the County's decision to deny the homeowner's credit, which is provided under Utah Code Ann. Title 59, Chapter 2, Part 12, Property Tax Relief.[1] The County's decision letter was issued on DATE. In that letter, the County explained the reason for its decision was, "Gross 2023 household income exceeds the limit of $40,840.00 for 2024 applications."

APPLICABLE LAW

Utah Code Ann. §59-2-103(2) (2024)[2] provides for the assessment of property, as follows:

[1] The homeowner's credit has been recodified to Title 59, Chapter 2a, Tax Relief Through Property Tax, effective beginning on January 1, 2026. However, for the 2024 tax year at issue in this appeal, Title 59, Chapter 2, Part 12, Property Tax Relief, applies.
[2] This decision cites to, and is applying the substantive law in effect for tax year 2024.

> 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.

Utah Code Ann. Title 59, Chapter 2, Part 12, Property Tax Relief, provides as general tax relief the homeowner's credit 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. §59-2-1207 provides that only one claim per household may be made as follows:

> (1) A county shall apply as provided in Subsection 59-2-1206(1)(c) the amount of a credit under this part against:
> (a) a claimant's property tax liability; or
> (b) the property tax liability of a spouse who was a member of the claimant's household in the year in which the claimant applies for a homeowner's credit under this part.
> (2) Only one claimant per household per year is entitled to payment under this part.

Utah Code Ann. §59-2-1202 provides the following definitions for purposes of the homeowner's credit as follows:

> (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.

. . . .

(4)(a) "Homeowner" means:
(i) an individual whose name is listed on the deed of a residence; or
(ii) if a residence is owned in a qualifying trust, an individual who is a grantor, trustor, or settlor or holds another similar role in the trust.
(b) "Homeowner" does not include:
(i) if a residence is owned by any type of entity other than a qualifying trust, an individual who holds an ownership interest in that entity; or
(ii) an individual who is listed on a deed of a residence along with an entity other than a qualifying trust.

(5) "Homeowner's credit" means a credit against a claimant's property tax liability.

(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) "Income" means the sum of:
(a) federal adjusted gross income as defined in Section 62, Internal Revenue Code; and
(b) nontaxable income.

(9)(a) "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 or Part 18, Tax Deferral and Tax Abatement;
(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 or Part 18, Tax Deferral and Tax Abatement;
(iv) support money received;
(v) nontaxable strike benefits;
(vi) 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;
(vii) except for payments described in Subsection (9)(b)(vi), payments received under the Social Security Act;
(viii) state unemployment insurance amounts;
(ix) nontaxable interest received from any source;
(x) workers' compensation;
(xi) the gross amount of "loss of time" insurance; and
(xii) voluntary contributions to a tax-deferred retirement plan.
(b) "Nontaxable income" does not include:
(i) public assistance;
(ii) aid, assistance, or contributions from a tax-exempt nongovernmental source;
(iii) surplus foods;
(iv) relief in kind supplied by a public or private agency;
(v) relief provided under this part or Part 18, Tax Deferral and Tax Abatement;
(vi) Social Security Disability Income payments received under the Social Security Act;
(vii) federal tax refunds;
(viii) federal child tax credits received under 26 U.S.C. Sec. 24;
(ix) federal earned income tax credits received under 26 U.S.C. Sec. 32;
(x) payments received under a reverse mortgage;
(xi) payments or reimbursements to senior program volunteers under 42 U.S.C. Sec. 5058; or
(xii) gifts or bequests.

(10) (a) "Property taxes accrued" means property taxes, exclusive of special assessments, delinquent interest, and charges for service, levied on 35% of the fair market value, as reflected on the assessment roll, of a claimant's residence in this state.
(b) For a mobile home, "property taxes accrued" includes taxes imposed on both the land upon which the home is situated and on the structure of the home itself, whether classified as real property or personal property taxes.
(c) The relief described in Subsection (10)(a) constitutes:
(i) a tax abatement for the poor in accordance with Utah Constitution, Article XIII, Section 3; and
(ii) the residential exemption provided for in Section 59-2-103.
(d) For purposes of this Subsection (10), property taxes accrued are levied on the lien date.
(e) When a household owns and occupies two or more different residences in this state in the same calendar year, and neither residence is acquired or sold during the calendar year for which relief is claimed under this part, property taxes accrued shall relate only to the residence occupied on the lien date by the household as the household's principal place of residence.
(f) (i) If a residence is an integral part of a large unit such as a farm or a multipurpose or multidwelling building, property taxes accrued shall be calculated on the percentage that the value of the residence is of the total value of the unit.
(ii) For purposes of this Subsection (10)(f), "unit" refers to the parcel of property covered by a single tax statement of which the residence is a part.

. . . .

(14)(a)(i) "Residence" means the dwelling in this state, whether owned or rented, and so much of the land surrounding the dwelling, not exceeding one acre, as is reasonably necessary for use of the dwelling as a home.

> (ii) "Residence" includes a dwelling that is: (A) a part of a multidwelling or multipurpose building and a part of the land upon which the multidwelling or multipurpose building is built; and (B) a mobile home or houseboat.
> (b) "Residence" does not include personal property such as furniture, furnishings, or appliances.
> (c) For purposes of this Subsection (14), "owned" includes a vendee in possession under a land contract or one or more joint tenants or tenants in common.

Utah Admin. Rule R865-9I-34(1)(a) addresses "household" for purposes of the homeowner's credit as follows:

> (1) "Household" is determined as follows:
> (a) 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.
> . . .
> (8) Persons claiming a property tax exemption, deferral, reduction, or abatement under Title 59, Chapter 2, Parts 11, 18, or 19 are not precluded from claiming a homeowner's or renter's credit.

A person has the right to appeal decisions of the county regarding the homeowner's credit 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.

A person who claims an exemption has the burden of proof, and must demonstrate facts to support the application of the exemption. *See Butler v. State Tax Commission*, 367 P.2d 852, 854 (Utah 1962). Further, in *Corporation of the Episcopal Church in Utah v. Utah State Tax Comm'n*, 919 P.2d 556 (Utah 1996), the Supreme Court of Utah determined that "[t]he burden of establishing the exemption lies with the entity claiming it, although that burden must not be permitted to frustrate the exemption's objectives." In addition, the Supreme Court of Utah noted that "[e]xemptions are strictly construed[,]" but noted that the strict construction "should not be so narrowly applied, however, that it defeats the purpose of the exemption." Although Utah Code Ann. §59-2-1201 provides that the purpose of Title 59, Chapter 2, Part 12, Property Tax Relief, is to provide "relief for certain persons who own or rent their places of residence through a system of tax credits, refunds, and appropriations . . . ." and the homeowner's credit is a credit rather than an exemption, the homeowner's credit operates similarly to an exemption in that it relieves a property owner from tax liability that would otherwise be owed. Absent a showing of any statute or case law to the contrary, the Commission finds no reason to treat the burden of proof in homeowner's credit tax relief matters differently from how the Commission treats the burden of proof for purposes of a property tax exemption.

DISCUSSION

The facts presented by the parties were not in dispute. The dispute in this matter was a legal question regarding whether income rolled over from a 401(k) to an IRA, in a nontaxable transaction, should be included in the Property Owner's household income for purposes of determining whether the Property Owner qualified for the homeowner's credit.

The Property Owner is ##### years old. She owned the property for which she was requesting the homeowner's credit and it had been her residence for ##### years. This was her only residence, where she was domiciled for all of 2024, and she was the only person residing at the residence. The Property Owner explained that after she retired she was required to roll over the funds from her employer sponsored 401(k), which totaled $$$$$, into a new IRA account through a direct transfer, which was a nontaxable event. Because the transfer was accomplished as a nontaxable event, the income was not included in her federal adjusted gross income on her federal or state income tax return for tax year 2023. She provided a letter from her financial advisor and the Form 1099 for the distribution, which listed the gross distribution amount as $$$$$ and the taxable amount as $$$$$, with the distribution code listed as "G" for a direct rollover. She provided a copy of her 2023 federal income tax return on which her taxable income was listed as $$$$$. The 401(k) distribution was listed on line 4a of her 2023 federal income tax return, and no portion was listed on line 4b as the taxable amount. The Property Owner also provided her Social Security statement and had listed on line 6a of her federal income tax return $$$$$ in Social Security benefits, with $$$$$ of the benefits as taxable. The Property Owner also provided the other Forms 1099 and a Form W-2 related to her income in 2023.

The representative for the County explained that the County had included the $$$$$ in the Property Owner's household income for purposes of determining whether she qualified for the homeowner's credit and that amount put her over the qualification limit, which for 2024 was $$$$$. The County's representative explained that the County had calculated the Property Owner's household income as follows:

Federal Adjusted Gross Income	$$$$$
Social Security Benefits	$$$$$[3]
401(k) Distribution/Rollover	$$$$$

The representative for the County explained that it was the County's position that when a property owner rolled over a distribution into a different type of account, such as from a 401(k) to an IRA, the County considered the distribution to be a rollover and included that income in the household income. However, if a property owner transfers a distribution into the same type of account, such as from a 401(k) to another 401(k), the County considers such a transaction to be a like-to-like transfer and does not include it in the household income. The representative for the County who attended the Initial Hearing

[3] None of the Social Security benefits were included in the Property Owner's federal adjusted gross income.

acknowledged that she was not really clear on why the County had made this distinction, but stated that the County had relied on the Utah Court of Appeals decision in *Khan v. Tax Commission*, 2016 UT App 142 and *Utah State Tax Commission Initial Hearing Order* 17-1321 (01/17/2018).

The Commission reviews the parties' information and arguments and the applicable law. Utah Code Ann. §59-2-1208 provides that "a claimant may claim a homeowner's credit" if the claimant's household income is under certain limits listed in the statute that are subject to annual inflationary adjustments. Utah Code Ann. §59-2-1202(1) provides a number of requirements to be considered a "claimant" entitled to claim the credit, including that the homeowner is domiciled in Utah for the entire calendar year for which the claim for relief is filed and that the homeowner 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." Utah Code Ann. §59-2-1202(4) provides the definition of "homeowner," which requires that the person who claims the credit is "an individual whose name is listed on the deed" with an exception for certain qualifying trusts. In this appeal, it was not disputed the Property Owner was over the age required to claim the homeowner's credit, she owned the subject property and resided at that property, and had been domiciled in Utah for all of 2024. The issue was whether her household income was under the qualification limit, which for tax year 2024 was $40,840.

If the rollover amount of $$$$$ were not included in the household income, the household income would only be $$$$$, and the Property Owner would qualify for the homeowner's credit. However, if the $$$$$ were included in household income, the Property Owner would not qualify for the homeowner's credit. "Household income" is defined at Utah Code Ann. §59-2-1202(7) to be "all income received by all members of a claimant's household in: (i) for a claimant who owns a residence, the calendar year preceding the calendar year in which property taxes are due . . . ." "Income" is defined at Utah Code Ann. §59-2-1202(8) to be "the sum of: (a) federal adjusted gross income as defined in Section 62, Internal Revenue Code; and (b) nontaxable income. From the information presented, the $$$$$ rollover amount was not includable in the Property Owner's federal adjusted gross income.

Therefore, the issue is whether it is includable as "nontaxable income." "Nontaxable income" is defined at Utah Code Ann. §59-2-1202(9)(a) to be "amounts excluded from adjusted gross income under the Internal Revenue Code." This subsection also provides a nonexhaustive list of amounts that are included in nontaxable income, such as capital gains, support money received, strike benefits, and payments under the Social Security Act. Although nontaxable 401(k) rollovers are not included in this list, Utah Code Ann. §59-2-1202(9)(a)(xii) includes "voluntary contributions to a tax-deferred retirement plan" as nontaxable income.

The County stated that it relied on *Khan v. Tax Commission*, 2016 UT App 142, in making decisions about what constitutes nontaxable income. The Utah Court of Appeals concluded in *Khan* that

the nontaxable portion of the income rolled over from a traditional IRA to a Roth IRA should have been included in "household income" for purposes of the renter's credit. The renter's credit applies the same definition of "household income" as is used for the homeowner's credit. In *Khan,* the Utah Court of Appeals determined Mr. Khan's household income as follows:[4]

> Because a taxpayer must pay tax on the conversion from an IRA to a Roth IRA, the taxable amount of the contribution is added to the taxpayer's AGI. *See* I.R.C. § 408A(d)(3)(A) (2010). So although the taxpayer does not physically receive the amount contributed to the Roth IRA, it "shall be included in gross income." *Id.; see also Bobrow v. C.I.R.*, T.C. Memo 2014-21, 107 T.C.M. (CCH) 1110, 2014 WL 303234, at *6 (explaining that a rollover from an IRA to a Roth IRA "is fully includible in petitioner's gross income").
>
> . . . .
>
> Based on the information Khan reported on his 2010 federal [***3] individual income tax return, he had an adjusted gross income (AGI) of $10,619: the sum of $12 in interest, the taxable portion of an Individual Retirement Account (IRA) distribution of $9,371, $4,236 in pensions and annuities, and a capital loss deduction of $3,000. Not included in his AGI—but reported on his tax return—was $13,842 in Social Security benefits and the nontaxable portion of his traditional IRA distribution of $1,290. He also indicated on a Capital Gains and Losses Schedule D worksheet attached to his tax forms that he had $98,086 in capital losses carried forward from previous years. *Id*. P3.
>
> . . .
>
> Correctly calculated, Khan's household income still falls between $26,289 and $29,210 which entitles him to a refund of $106. Khan's correct household income should be $28,751, which is the sum of his $10,619 AGI, $13,842 in Social Security benefits, $1,290 in nontaxable IRA distributions, and $3,000 [***12] claimed as loss carry forwards. *Id*. P19

The Commission is constrained in this decision to follow the precedent set by the Utah Court of Appeals in *Khan v. Tax Commission*, 2016 UT App 142. The Utah Court of Appeals in *Khan* specifically found that a nontaxable distribution from a traditional IRA to a Roth IRA was included in household income for purposes of the renter's credit, which uses the same definitions of "household income" and "nontaxable income" as the homeowner's credit. *Id.* at ¶¶17 and 19.[5] With the $$$$$ direct rollover

[4] Khan v. Tax Comm'n, 2016 UT App 142, P10.

[5] In our view, a trustee-to-trustee transfer from one trustee to another trustee may be a distribution, but we question whether it is income that should be included in "household income" for purposes of the homeowner's credit. Likewise, we question whether a direct distribution from a 401(k) trustee to an IRA trustee is income that should be included in "household income" for purposes of the homeowner's credit. Both are mere changes of the form of ownership, similar to the finding of the Commission in *Appeal 17-1321,* where a Section 1035 exchange between different insurance carriers was not found to be household income. However, under *Khan*, we feel constrained to rule that a nontaxable distribution from a 401(k) to an IRA is nontaxable income, and thus household income, for purposes of the homeowner's credit, just as a nontaxable distribution from a traditional IRA to a Roth IRA was household income for purposes of the renter's credit under *Khan*.

amount included, the Property Owner's household income was over the tax year 2024 qualification limit of $40,840. Therefore, the Property Owner does not qualify for the homeowner's credit for tax year 2024 on that basis.

Jane Phan
Administrative Law Judge

DECISION AND ORDER

Based on the foregoing, the Tax Commission finds that the Property Owner does not qualify for the homeowner's credit for tax year 2024 and the Property Owner's appeal is hereby denied. 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 _____, 2026.

John L. Valentine
Commission Chair

Rebecca L. Rockwell
Commissioner

Jennifer N. Fresques
Commissioner

John T. Deeds
Commissioner