

STATE OF VERMONT
COMMISSIONER OF TAXES

IN RE: [Taxpayer]
School Property Tax
ATC #15-54

DETERMINATION

Introduction

A hearing was held [Date], on the taxpayer's appeal of the Department's assessment for repayment of a property tax adjustment benefit. [Taxpayer] appeared by telephone.

[Redacted]

Findings of Fact

1. [Taxpayer], applied in [year 4] for a property tax adjustment. The Department paid the adjustment amount based on her application information. A property tax adjustment amount is controlled in part by the amount of Household Income the claimant received in the prior year. Upon review of her application, the Department discovered that the [year 3] wages she included in her Household Income calculation were lower than the wages she declared on her [year 3] Federal income tax return.

2. Based on the Federal wage information, the Department reduced Taxpayer's property tax adjustment amount. The Department sent her a letter of explanation and a Notice of Assessment, requiring her to repay the amount of the property tax adjustment received in error. State's Exhibit ("Ex.") 1, 2. As of [Date], the assessment was [\$], penalty was [\$], and interest was [\$]. State's Ex. 2.

3. Taxpayer timely appealed the assessment. State's Ex. 3. She wrote to the Department, explaining that beginning in [year 1], she was on short-term- and then on long-term disability leave from her employment. During her long-term disability she received insurance payments in

lieu of wages from [year 2] through [year 3]. Id. In [year 3], she received a Social Security lump-sum payment to cover her disability. Under a signed agreement with her insurer, she was obligated to re-pay, out of her Social Security payment, the two years' of insurance payments-in-lieu-of-wages she had received. In [year 3], she repaid [\$] of the insurance payments she had received from [year 2] to [year 3]. She repaid the remaining [\$] in [year 4]. Id.

4. Taxpayer properly reported her insurance-in-lieu-of-wages as income on her [year 3] Federal tax return. Id. She also properly reported her repayment of the [\$] of that income, by taking a deduction on Schedule A of her [year 3] Federal return. Id. The Internal Revenue Service accepted her return as correct. Id. She requested that the Department allow her to reduce her [year 3] Household Income by the [\$] repayment. The Department responded that the statutory definition of Household Income did not allow for deductions, but was instead based on the claimant's Federal adjusted gross income, before any deductions.

Discussion and Conclusions of Law

Vermont's property tax relief program allows a reduction of property taxes for income-qualified homeowners. As a general matter, the amount of the property tax adjustment decreases as the claimant's "Household Income" increases. 32 V.S.A. § 6066.

"Household Income" is defined as the claimant's Federal adjusted gross income, with several adjustments not relevant here. 32 V.S.A. § 6061(4), (5). Federal adjusted gross income is the gross income before any itemized deductions taken on Schedule A. 26 U.S.C. §§ 61, 62. This means that Taxpayer's [year 3] Federal adjusted gross income included her insurance payments-in-lieu-of-wages, but did not reflect her repayments, which were properly subtracted on Schedule A as a deduction. As a result, her Household Income, as defined by law, must include the insurance payments and is not reduced by the repayments.

The Department properly calculated Taxpayer's [year 3] Household Income in accordance with Vermont law, including her Federal adjusted gross income and excluding her deduction for the repayment.

As a result, the Department's assessment is affirmed.

Dated this day of , 2016, at Montpelier, County of Washington, State of Vermont.

State of Vermont
Department of Taxes

Emily J. Bergquist
Hearing Officer

APPROVED BY:

Mary N. Peterson
Commissioner of Taxes

Date: _____

GENERAL PROVISIONS

Other taxpayers may refer to this Determination, when redacted to protect confidentiality, to see the Department's general approach, but the Department will not be bound by this Determination in the case of any other taxpayer or in the case of any change in the relevant statutes or regulations.

This Determination may be made public after deletion of the parties' names and any information which may identify the parties. A copy of this Determination showing the proposed deletions is attached, and you may request within 30 days that the Commissioner delete any further information that might identify the parties. The final discretion as to deletions rests with the Commissioner.