

BEFORE THE IDAHO BOARD OF TAX APPEALS

ESTATE OF WALDO & MARGARET VEST,)	
)	
Appellant,)	APPEAL NO. 14-A-1121
)	
v.)	FINAL DECISION
)	AND ORDER
BONNEVILLE COUNTY,)	
)	
Respondent.)	
_____)	
)	
)	

HOMESTEAD EXEMPTION APPEAL

This appeal is taken from a decision of the Bonneville County Board of Equalization denying the claim for exemption on property described by Parcel No. RPA1040062003A. The appeal concerns the 2014 tax year.

This matter came on for hearing October 30, 2014 in Idaho Falls, Idaho before Hearing Officer Cindy Pollock. David Vest appeared at hearing for Appellant. Assessor Blake Mueller represented Respondent.

Board Members David Kinghorn, Linda Pike and Leland Heinrich participated in this decision.

The issue on appeal concerns whether a beneficiary of an estate qualifies for the homestead exemption provided in Idaho Code § 63-602G.

The decision of the Bonneville County Board of Equalization is affirmed.

FINDINGS OF FACT

The assessed value of the subject property was not challenged. Instead, this appeal is squarely focused on whether a homestead exemption should have been granted to the beneficiary of the owner’s estate.

The subject property is located in Idaho Falls, Idaho. Since 1963, title to the subject property has been in the names Waldo and Margaret Vest. In 1998, Waldo passed away, leaving the surviving spouse Margaret as the sole legal owner of subject. Margaret elected to

¹Subject was granted a homestead exemption for several years prior to Margaret's death in 2011. The exemption was disallowed for the 2012 tax year, and the subsequent two (2) tax years.

In basic terms, the homestead exemption reduces the taxable value for assessment purposes of a qualified claimant's primary dwelling place. The homestead exemption is found in Idaho Code § 63-602G, and provides in pertinent part,

(1) During the tax year 2006 and each year thereafter, subject to annual adjustment as provided herein, the first seventy-five thousand dollars (\$75,000) of the market value for assessment purposes of the homestead . . .

(2) The exemption allowed by this section may be granted only if:

(a) The homestead is owner-occupied and used as the primary dwelling place of the owner as of January 1, provided that in the event the homestead is owner-occupied after January 1 but before April 15, the owner of the property is entitled to the exemption. . .

(b) The state tax commission has certified to the board of county commissioners that all properties in the county which are subject to appraisal by the county assessor have, in fact, been appraised uniformly so as to secure a just valuation for all property within the county; and

(c) The owner has certified to the county assessor by April 15 that:

(i) He is making application for the exemption allowed by this section;

(ii) The homestead is his primary dwelling place; and

(iii) He has not made application in any other county for the exemption, and has not made application for the exemption on any other homestead in the county.

(d) For the purpose of this section, the definition of "owner" shall be the same definition set forth in section 63-701(7), Idaho Code . . .

(3) An owner need only make application for the exemption described in subsection (1) of this section once, as long as all of the following conditions are met:

(a) The owner has received the exemption during the previous year as a result of his making a valid application as defined in subsection (2)(c) of this section.

(b) The owner or beneficiary, partner, member or shareholder, as appropriate, still occupies the same homestead for which the owner made application.

(c) The homestead described in subsection (3)(b) of this section is owner-occupied or occupied by a beneficiary, partner, member or shareholder, as appropriate, and is used as the primary dwelling place of the owner or beneficiary, partner, member or shareholder

Prior to 2012, the homestead exemption did not continue after the death of the owner.

During the legislative session in 2012, House Bill 584 was passed with a retroactive enactment date of January 1, 2012. House Bill 584 amended Idaho Code § 63-602G by adding the following subsection:

(8) A homestead, having previously qualified for exemption under this section in the preceding year, shall not lose such qualification due to the owner's, beneficiary's, partner's, member's or shareholder's death *during the year of the owner's, beneficiary's, partner's, member's or shareholder's death and the tax year immediately following such death, provided that the homestead continues to be a part of the owner's, beneficiary's, partner's, member's or shareholder's estate. After such time the new owner shall reapply to receive the exemption* pursuant to this section and shall meet the qualification criteria contained in this section. (emphasis added).

As the above subsection and associated legislative history makes clear, the homestead exemption automatically persists during the year of the owner's death and the following tax year, provided the homestead continues to remain in the owner's estate. After such time period, a new application must be filed to qualify for the exemption.

In the case at bar, subject was owned by Waldo and Margaret Vest. Upon Waldo's death in 1998, subject was passed to Margaret pursuant to the intestate succession provisions relating to community property in the Idaho Uniform Probate Code. Specifically, Idaho Code § 15-2-102 provides, "The intestate share of the surviving spouse is as follows: (b) As to community property: (1) The one-half (1/2) of community property which belongs to the decedent passes to the surviving spouse." In 2011, Margaret died intestate and because there was no surviving spouse, the entire intestate estate passes "to the issue of the decedent" Idaho Code § 15-2-103. As applied to the facts here, David is the beneficiary of Margaret's intestate estate and therefore has a future interest in the subject property. Such interest, however, does not amount to that of "owner", which Idaho Code 63-701 defines as, among other things, "a person holding

title in fee simple”

Respondent argued the current version of Idaho Code § 63-602G only allows the homestead exemption to remain in place during the year of the claimant’s death and the following tax year. Appellant countered the revised statute allows the exemption to continue until the estate is settled. We disagree.

“Unless a contrary purpose is clearly indicated, ordinary words will be given their ordinary meaning when construing a statute. In construing a statute, this Court will not deal in any subtle refinements of the legislation, but will ascertain and give effect to the purpose and intent of the legislature, based *on the whole act and every word therein*, lending substance and meaning to the provisions.” *Corp of the Presiding Bishop of Church of Jesus Christ of Latter-Day Saints v. Ada County*, 123 Idaho 410, 415, 849 P.2d 83, 86 (1993) (emphasis added).

The last sentence of the homestead exemption statute allows the exemption to remain in effect until one (1) year following the claimant’s death, after which the *new* owner must apply for the exemption. The last sentence of the revised statute makes clear the legislature recognized settlement of an estate could be a lengthy process, but the legislature also did not intend for the exemption to remain in effect indefinitely, which is evidenced by the one-year restriction. After expiration of the one-year period, the exemption is lost until a new owner successfully completes the application process.

“It should further be observed that a grant of exemption from taxation is never presumed and statutes and constitutional provisions relating to exemptions should be strictly construed, and where a doubt arises it should be resolved against the exemption.” *Lewiston Orchards Irrigation Dist. v. Gilmore*, 53 Idaho 377, 383, 23 P.2d 720, 722 (1933). In this case, Appellant

did not clearly demonstrate entitlement to the exemption under the revised statute. Margaret passed away in 2011, which is more than the one (1) year “grace” period allowed by the statute. As such, Respondent properly denied the homestead exemption.

Based on the above, the decision of the Bonneville County Board of Equalization is affirmed.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Bonneville County Board of Equalization concerning the subject parcel be, and the same hereby is, AFFIRMED.

DATED this 2nd day of March, 2015.