

## APPENDIX 4

Copy of the Department of Revenue handout that implicates the DOR in the assessor's fraud. Compare paragraph 5 with the controlling law.

It is a "black and white" issue. The DOR is involved in this "fraud."

During the Admin workshop in Moses Lake, Scott Furman, Okanogan County Assessor, requested some "language" that can be used when responding to those questions about why we cannot use losses to offset gains. The language I normally use is actually a paraphrase from a BTA case - Docket #55692. Other docket numbers for reference are #56336 and #55067. Here's a sample:

The general rules pertaining to property tax exemptions require that the statutory language be construed strictly, though fairly. Taxation is the rule and exemption is the exception. The Legislature has set specific criteria for exempting property from property taxes because exemptions create a "shift" of the tax burden, causing other taxpayers in the taxing district to actually pay higher property taxes.

The methods established by the federal government for determining "taxable income" are not the same as those used to establish "disposable income" for the State of Washington Property Tax Exemption Program. RCW (Revised Code of Washington) 84.36.379 was enacted by the Legislature in 1980. The intent section declares that the property tax exemption authorized in our State Constitution should be available on the basis of a retired person's ability to pay property tax and that a person's disposable income is the best measure of that ability. For purposes of the property tax exemption, it is not left to the Assessor to decide what constitutes "disposable income". The term was given a specific definition by the Legislature and the income thresholds were established with consideration for household operating expenses.

The State law governing property tax exemption is independent of the federal income tax statutes and the federal "adjusted gross income" figure is only the starting point for calculating "disposable income."

RCW 84.36.383(5) defines "disposable income" as adjusted gross income, as defined in the federal internal revenue code, plus all of the following items to the extent they were included in or excluded from adjusted gross income:

- (a) Capital gains, other than gain excluded from income under section 121 of the federal internal revenue code to the extent it is reinvested in a new principal residence;
- (b) Amounts deducted for loss;
- (c) Amounts deducted for depreciation;
- (d) Pension and annuity receipts;
- (e) Military pay and benefits other than attendant-care and medical-aid payments;
- (f) Veterans benefits other than attendant-care and medical-aid payments;
- (g) Federal social security act and railroad retirement benefits;
- (h) Dividend receipts; and
- (i) Interest received on state and municipal bonds.

Although I am sympathetic to your situation and understand your thoughts on the matter, the laws and rules governing the Senior and Disabled Persons Exemption program are very clear. In the calculation of income for this program, losses must be excluded, whether or not they can be used to offset taxable income for federal income tax purposes. We cannot ask other taxpayers to subsidize the personal losses of someone else.