

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 14939
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On July 6, 2000, the staff of the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer), proposing income tax, penalty, and interest for the taxable years 1992 through 1997, in the total amount of \$7,039.

On July 24, 2000, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not request a hearing but did submit additional information for the Tax Commission to consider. Therefore, the Tax Commission, having reviewed the file, hereby issues its decision.

[Redacted]. The Bureau concluded the taxpayer had income in excess of the filing requirement of Idaho Code section 63-3030 and issued a Notice of Deficiency Determination.

The taxpayer protested the Bureau's determination stating he disagreed with the taxable amount because his resident status was questionable. The taxpayer completed and returned the Bureau's residency/domicile questionnaire and asked for a redetermination based upon the information provided in the questionnaire.

The Tax Commission reviewed the taxpayer's case and followed up with the taxpayer setting forth the taxpayer's choices for having his case redetermined. The Tax Commission asked the taxpayer to provide additional information about his history to accurately determine his residency and domicile. The taxpayer responded by providing additional information of his employment and resident history for ten years prior to the years in question.

The issue presented in this case is where was the taxpayer's domicile from 1992 through 1997. It is a fundamental rule of law that all persons have a domicile somewhere. Taylor v. Milam, 89 F.Supp. 880, 881 (W.D. Ark. 1950); Ex parte Phillips, 275 Ala. 80, 152 So. 2d 144, 146 (1963). Equally, no person has more than one domicile at a time. Smith v. Smith, 45 Cal. 2d 235, 288 P.2d 497, 499 (1955).

Domicile forms the constitutional basis for the imposition of state income taxes on an individual. New York ex rel. Cohn v. Graves, 300 U.S. 308, 313 (1937); Lawrence v. State Tax Commission of Mississippi, 286, U.S. 276, 279 (1932). Domicile is defined in IDAPA 35.01.01.030, Income Tax Administrative Rules, as the place where an individual has his true, fixed, permanent home and principal establishment, and to which place he has the intention of returning whenever he is absent. The term domicile denotes a place where an individual has the intention to remain permanently or for an indefinite time. Domicile, once established, is never lost until there is a concurrence of a specific intent to abandon an old domicile, an intent to acquire a specific new domicile, and the actual physical presence in a new domicile.

The taxpayer stated he came to the state of Wyoming in September 1981 after graduating from a college in upstate New York. From September 1981 to 1995, the taxpayer stated he worked seasonal with the U.S. Forest Service and with various surveying and engineering firms in and around [Redacted], Wyoming. The taxpayer stated he lived in housing provided by the U.S. Forest Service and in rentals in [Redacted] in the off-season. These statements indicate the taxpayer may have been domiciled in Wyoming from 1981 through 1995.

However, in August 1991, the taxpayer acquired an Idaho driver's license. He renewed that license in 1994 and in 1997. In September 1992, the taxpayer registered to vote in Idaho stating that he had resided in Idaho for 12 months. In 1994, the taxpayer purchased a resident Idaho fish and game license on which he stated he was domiciled in Idaho for four years. By

acquiring these licenses and privileges, the taxpayer was holding himself out to be an Idaho resident.

The taxpayer stated his work was seasonal and that while he worked for the U.S. Forest Service he lived in employer provided housing. He stated that during the off-season he did some traveling in Ecuador, Mexico, Argentina and sailed the Atlantic Ocean. In 1994, the taxpayer stated he did some housesitting for some friends in [Redacted], Idaho.

Generally, domicile is evidenced by where an individual has his primary home, where his business involvement is, where he spends most of his time, where he keeps his near and dear items, and where his family connections are located. In this case, the taxpayer did not show a particular location that would be considered his primary home. When the taxpayer was working in Wyoming, most of the time his housing was provided by the U.S. Forest Service. While the taxpayer was in Wyoming and not working, he stated he was transient or renting.

As for the taxpayer's business involvement, the taxpayer was always employed in Wyoming. The taxpayer was not involved in a sole proprietorship or any other business that kept him tied to Wyoming. The taxpayer did do some housesitting in Idaho during the years in question, but there is no indication the taxpayer received any compensation other than housing accommodations for that service.

The taxpayer obviously spent time in Wyoming, due to his employment in Wyoming. However, the taxpayer also spent significant time in Idaho, Ecuador, Mexico, Argentina, and sailing on the Atlantic Ocean. Other than for employment reasons, the taxpayer did not show he was at any one place for a greater period of time than any of the others.

The taxpayer provided no information about where he kept his "near and dear" items or where his family was located.

Therefore, from the information available, the Tax Commission finds the taxpayer established a "paper trail" that holds him out to have an Idaho domicile. The paper trail consists of registering to vote in Idaho, obtaining an Idaho driver's license and purchasing resident fish and game licenses. This information shows the taxpayer considered himself an Idaho resident as early as 1991.

Furthermore, beginning sometime in 1996 to the end of 1998, the taxpayer began doing something that made the determination of his domicile irrelevant. In 1996, the taxpayer began living in Idaho and working in Wyoming, something that had not previously occurred together. Since the taxpayer was living in Idaho, he was a resident of Idaho. As a resident of Idaho, individuals are required to report to Idaho the income earned from all sources while a resident of Idaho, whether part-year or full-time residents (Idaho Code sections 63-3002 and 63-3026A). Therefore, the taxpayer was required to file 1996 and 1997 Idaho income tax returns reporting the income he received while living in Idaho. However, since the Tax Commission determined the taxpayer was domiciled in Idaho beginning in 1992, the taxpayer was required to file and report all his income from whatever source derived to Idaho beginning with the taxable year 1992.

The Bureau added interest and penalty in accordance with Idaho Code sections 63-3045 and 63-3046. The Tax Commission finds the application of the interest appropriate but finds there was reasonable cause for the taxpayer to question his filing requirement with the state of Idaho. Therefore, the Tax Commission waives the penalty (Idaho Code section 63-3047).

WHEREFORE, the Notice of Deficiency Determination dated July 6, 2000, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is APPROVED, AFFIRMED, AND MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
1992	\$ 187	\$0	\$114	\$ 301
1993	227	0	114	341
1994	508	0	240	748
1995	826	0	369	1,195
1996	1,073	0	390	1,463
1997	1,600	0	443	<u>2,043</u>
			Total	6,091
			Less Payment	< <u>2,000</u> >
			Balance Due	<u>\$4,091</u>

Demand for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayer's right to appeal this decision is included with this decision.

DATED this ____ day of _____, 2001.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2001, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED] Receipt No. [Redacted]
[REDACTED][REDACTED]

ADMINISTRATIVE ASSISTANT 1