

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 16962
[REDACTED],)	
)	DECISION
Petitioner.)	
_____)	

On October 17, 2002, the staff of the Tax Discovery 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 2000 in the total amount of \$46,556.

On October 29, 2002, the taxpayer filed a timely appeal and petition for redetermination. The taxpayer requested a hearing with the Tax Commission, which was held January 3, 2003. The Tax Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) received information [Redacted] that showed the taxpayer might have a filing requirement with the state of Idaho. The Bureau researched the Tax Commission's records and found that the taxpayer did not file Idaho income tax returns for the taxable years 1992 through 2000. The Bureau sent the taxpayer a letter asking about his filing requirement with the state of Idaho. The taxpayer responded that he was not required to file Idaho income tax returns. The taxpayer provided partial copies of his federal income tax returns to show that he did not earn any income in Idaho.

The Bureau reviewed the taxpayer's federal returns and noted the taxpayer's address was listed as Boise, Idaho. The Bureau obtained additional information that showed the taxpayer had an Idaho driver's license throughout the years, a resident fish and game license for most of the

years, and he owned property in Idaho for some of the years. The Bureau also found that the taxpayer received the homeowner's exemption in 1999 and 2000.

From this information, the Bureau determined the taxpayer might be domiciled in Idaho and required to report all his income to Idaho. Therefore, the Bureau prepared returns for the taxpayer and sent him a Notice of Deficiency Determination. The taxpayer protested the determination and requested a hearing with the Tax Commission.

The Tax Commission scheduled a hearing, which was attended by the taxpayer, his representative, Commissioner [Redacted], and Tax Policy Specialist [Redacted]. At the hearing, the taxpayer gave a detailed history of his employment. Prior to 1990, the taxpayer worked in Boise and Pocatello for the [Redacted]. In 1990 and part of 1991, the taxpayer stated he was unemployed and went through drug rehabilitation. In February 1991, the taxpayer landed a job with [Redacted]. The employment took the taxpayer to Alaska where he stayed until the middle of 1992. The taxpayer started in the factory and by 1992 he moved to the galley of a boat. The taxpayer continued his employment with [Redacted] and found himself working in different places around the world. He stated he occasionally came back to Idaho but only recently has he spent any measurable time in Idaho when he is off the boat.

The taxpayer stated his father, who lived in Idaho, took care of all his financial matters including filing his federal income taxes. Hence the Idaho addresses on his federal returns. The taxpayer kept a vehicle at his father's place. His father drove it occasionally to keep it in running condition; therefore, the vehicle had to be licensed and registered in Idaho. The taxpayer kept his driver's license with Idaho because his vehicle had Idaho plates.

The taxpayer stated that he was on the boat for 9 to 10 months each year. When he was off the boat he would visit his father (only relative in Idaho), get his vehicle and vacation in

[Redacted]. The taxpayer stated he was never in Idaho for more than 60 days. During some of the years, the taxpayer never came back to Idaho. In 1994 he was in [Redacted]. In 1996, he was in [Redacted]. In 1999 and 2000, the taxpayer was in [Redacted].

In 1995, the taxpayer purchased a house in Idaho. The taxpayer stated the house was purchased as an investment. He never lived in the house. However, he did allow friends to live in the house for utility costs to make the house look like it was occupied. The taxpayer sold the house in 1998 and purchased another, which is his residence now. However, the taxpayer stated he did not live in his current house until after he got married in 2000.

The taxpayer stated he was unaware of the homeowner's exemption he received for 1999 and 2000. He stated he would pay back any benefit he received. The taxpayer contacted the county, made the payment and provided the Tax Commission with evidence showing the payment.

The taxpayer stated he did get Idaho resident fish and game licenses for many of the years in question. However, he stated he did not purchase or apply for them. The taxpayer stated that the licenses were given to him as gifts from a girlfriend who worked at Intermountain Arms. He stated he never used the licenses.

Idaho Code section 63-3002 states that it is the intent of the Idaho income tax act to impose a tax on the residents of Idaho measured by their income from whatever source derived. Idaho Code section 63-3013 states that a resident is an individual who is domiciled in the state of Idaho for the entire taxable year or who maintains a place of abode in this state for the entire taxable year and spends in the aggregate more than 270 days of the taxable year in this state.

In its Notice of Deficiency Determination, the Bureau asserted that the taxpayer continued to have his domicile in Idaho during 1992 through 2000. Therefore, he was required

to report all his income to Idaho. Since the taxpayer provided nothing to show he abandoned Idaho and acquired another state as his domicile, the Tax Commission found that the taxpayer's domicile remained with Idaho during all the years. However, the information the taxpayer did provide showed the taxpayer met the safe harbor provision of Idaho Code section 63-3013.

Idaho Code section 63-3013(2) states in part,

An individual shall not be considered a resident, but may be considered a part-year resident, during a period of absence from this state described as follows:

(a) The period begins with an individual leaving this state if the individual is absent from this state for at least four hundred forty-five (445) days in the first fifteen (15) months.

(b) During such period, but excluding the first fifteen (15) months, the individual was not present in this state for more than sixty (60) days in any calendar year.

(c) During such period, the individual did not maintain a permanent place of abode in this state at which his spouse (unless he and his spouse are legally separated) or minor or dependent children are present for more than sixty (60) days during any calendar year.

The evidence and statements the taxpayer provided clearly show he left Idaho for a period of at least 15 months and was never present in the state for more than 60 days in a calendar year thereafter. Therefore according to the safe harbor provisions, the taxpayer is not considered a resident and not required to report his income from all sources to Idaho. However if the taxpayer had Idaho source income, he would be required to report that income to Idaho if the income exceeded the filing requirements of Idaho Code section 63-3030.

Idaho Code section 63-3026A states that the sale of property located in Idaho is considered Idaho source income. In 1998, the taxpayer sold the house he purchased in Idaho as an investment. The proceeds from that sale exceeded the filing requirements of Idaho Code section 63-3030. Therefore, the taxpayer was required to file an Idaho income tax return for 1998.

The Tax Commission finds that the taxpayer met the safe harbor provision of Idaho Code section 63-3013 and was not required to file Idaho income tax returns for the taxable years 1992 through 1997, 1999 and 2000. The Tax Commission further finds that the taxpayer was required to file an Idaho income tax return for 1998 reporting the sale of his Idaho property.

WHEREFORE, the Notice of Deficiency Determination dated October 17, 2002, 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	\$ 0	\$ 0	\$ 0	\$ 0
1993	0	0	0	0
1994	0	0	0	0
1995	0	0	0	0
1996	0	0	0	0
1997	0	0	0	0
1998	151	38	46	235
1999	0	0	0	0
2000	0	0	0	<u>0</u>
			AMOUNT PAID	<u>235</u>
			TOTAL DUE	<u>\$ 0</u>

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

DATED this ____ day of _____, 2003.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this ____ day of _____, 2003, 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]
