

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 22450
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

On July 16, 2009, the staff of the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayer) proposing income tax, penalty, and interest for taxable years 2003 through 2005 in the total amount of \$1,284,203.

On August 21, 2009, the taxpayer filed a timely protest and request for redetermination. The taxpayer also requested an informal hearing with a Commissioner or designee of the Tax Commission to discuss the NODD. The Commission conducted a telephonic hearing on February 23, 2010. The taxpayer participated along with his attorney, [Redacted], and his accountant, [Redacted].

The Commission has reviewed the entire file in this matter, including the information submitted by the taxpayer subsequent to the informal hearing. The Commission also has considered the discussions that took place during the telephonic hearing. The Commission now issues its decision.

This is a domicile case. Information available to the Bureau indicates that the taxpayer may have been maintaining an Idaho domicile and, therefore, had a requirement to file an Idaho resident income tax return for taxable years 2003 through 2005.

When the Bureau could not find any record of the taxpayer's 2003 through 2005 Idaho individual income tax returns, the taxpayer was sent a letter advising him of the missing returns

and asking him for an explanation. The taxpayer did not respond. The Bureau issued an NODD and finally received a response from the taxpayer's Power of Attorney (POA) [Redacted] in the form of a petition for redetermination.

The petition for redetermination addressed some of the factors that led the Bureau to make the determination that the taxpayer was an Idaho resident. However, the petition only contained statements in the taxpayer's best interest rather than supporting documentation. An informal hearing was requested in the event the Commission did not grant the taxpayer relief based solely on the petition.

The taxpayer's file was transferred to the Legal and Tax Policy section for continuation of the appeal process. An informal hearing was held in which the policy specialist was able to ask and obtain answers to many of the same questions the Bureau had surrounding the taxpayer and his ties to Idaho. Additional information was requested by the policy specialist to help determine the taxpayer's domicile. The information was submitted and reviewed.

The taxpayer is a businessman that has business activities, a residence, and family in both Idaho and California. When an individual maintains a residence in more than one state, determining which state is that person's domicile, as defined in the Tax Commission's 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," can be difficult.

In the present case, the taxpayer, through his business and personal activities prior to and throughout taxable years 2003 through 2005, appears to be an Idaho resident that meets the filing requirement. However, when all documentation, along with the information provided during the

informal hearing, is considered, the taxpayer is more than likely a resident of, and domiciled in, the state of California.

THEREFORE, the Tax Commission has decided that the Notice of Deficiency Determination dated July 16, 2009, should be CANCELLED.

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

DATED this _____ day of _____ 2010.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2010, 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.