

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 23864
[Redacted],	)	
	)	
Petitioner.	)	DECISION
_____	)	

On December 16, 2010, The Idaho State Tax Commission’s Central Processing Bureau issued a Notice of Deficiency Determination (NOD) to [Redacted] (Taxpayer) disallowing an amended Idaho Income Tax Form 43 she filed for taxable year 2009, claiming part-year residency status.

On January 24, 2011, the Taxpayer timely protested the NOD in a letter claiming that, during taxable year 2009, she permanently moved from Idaho to Washington and should, therefore, be considered a part-year resident of Idaho in that year for income tax purposes.

Enclosed with the protest letter was evidence of her residency status and intentions during the pertinent time frame in the form of a real estate listing on her Idaho property, U.S. Postal Service change of address form, and a moving truck rental receipt. According to the Taxpayer’s letter and documentation, she moved from Idaho to Washington to start a job on March 1, 2009. Sometime in June 2009, the Taxpayer lost her Washington employment and, on approximately July 1, 2009, moved back to Idaho to live in the property she owned in the state until it could be sold.

The taxpayer did not request a hearing, however, she did write another letter acknowledging her hearing rights and further explaining her situation and intentions as they existed in the pertinent timeframe. The Commission, having reviewed the file and associated documentation, hereby issues its decision.

## DISCUSSION

The issue in this case is whether the Taxpayer was a resident or part-year resident of Idaho for taxable year 2009 for income tax purposes. Idaho Code defines residency and part-year residency for income tax purposes as:

63-3013. RESIDENT. (1) The term “resident,” for income tax purposes, means any individual who:

- (a) Is domiciled in the state of Idaho for the entire taxable year; or
- (b) Maintains a place of abode in this state for the entire taxable year and spends in the aggregate more than two hundred seventy (270) days of the taxable year in this state. Presence within the state for any part of a calendar day shall constitute a day spent in the state unless the individual can show that his presence in the state for that day was for a temporary or transitory purpose.

63-3013A. PART-YEAR RESIDENT. The term part-year resident,” for income tax purposes, means any individual who is not a resident and who:

- (a) Has changed his domicile from Idaho or to Idaho during the taxable year; or
- (b) Has resided in Idaho for more than one (1) day during the taxable year. An individual shall be deemed to reside within Idaho for any calendar day in which that individual has a place of abode in this state and is present in this state for more than a temporary or transitory purpose. Presence for any fraction of a calendar day shall be counted as a whole day.

A person can have multiple residences, or places to live, but a domicile is, “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.” Idaho Income Tax Administrative Rule 030.02. Domicile is identified when a person has a physical presence at a dwelling place, and the concurrent intent to make that place a permanent home. Kirkpatrick v. Transtector Systems, 114 Idaho 559, 562 (1988).

In this case, the Taxpayer intended to move out of Idaho permanently, and did take up residence in Washington, evidencing a change of domicile. The Taxpayer stated that it was her intent to change domicile and leave the state of Idaho permanently when she left in March 2009.

The Taxpayer explained that intent in her protest and the subsequent letter to the Tax Commission and provided evidence of the intent when she listed her Idaho property for sale soon after moving to Washington. Additionally, after losing her job in Washington and moving back to Idaho, the Taxpayer again moved to Washington once her Idaho property sold.

The Taxpayer also provided evidence of her Washington residency during the time period in question. The Taxpayer forwarded mail to her address in Washington, had a work address there, and rented a truck there when moving back to Idaho. The Taxpayer's [Redacted] income tax returns also show Washington income for the pertinent timeframe and unemployment payments from that state after she lost her job there.

Because of the Taxpayer's change in domicile in taxable year 2009, she was a part-year resident of Idaho that year, for income tax purposes, under Idaho Code § 63-3013A. She did not meet the residency requirements in Idaho Code § 63-3013 in taxable year 2009 because she was not domiciled in Idaho for that entire year, nor did she spend more than two hundred seventy (270) days in the state.

### **CONCLUSION**

The information submitted by the taxpayer in support of her protest has been reviewed. From that information, the Commission finds the deficiency should be modified. As a part-year resident, a taxpayer must pay Idaho income tax in accordance with Idaho Code § 63-3026A. Therefore, the Commission finds that the Taxpayer owes Idaho income tax, as computed for a resident, for the portion of the tax period during which she resided in Idaho during taxable year 2009 and on her Idaho sourced unemployment benefits from the same timeframe.

THEREFORE, the Notice of Deficiency Determination dated December 16, 2010, directed to [Redacted], is hereby MODIFIED in accordance with the provisions of this decision and, AS SO MODIFIED, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED that the Taxpayer pay the following tax and interest:

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2009	\$214	\$15	\$229

Interest is calculated through January 18, 2012.

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 enclosed.

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2011.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2011, 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.  
  
\_\_\_\_\_