

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
[Redacted],) DOCKET NO. 23891
)
)
Petitioner.) DECISION
)
_____)

On August 11, 2010, 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 2008 in the total amount of \$30,773.

On August 30, 2010, the taxpayer submitted a response to the Bureau's Forgot to File Questionnaire stating that he was not required to file Idaho income tax returns for the years in question because he did not reside in Idaho. The taxpayer did not request a hearing but submitted additional information for consideration. The Commission, having reviewed the file, hereby issues its decision.

Information available to the Bureau shows the taxpayer filed federal income tax returns for taxable years 2003 through 2008 using an Idaho address but stopped filing Idaho income tax returns after taxable year 2001. The Bureau sent the taxpayer letters asking about his requirement to file Idaho income tax returns. The taxpayer did not respond. The Bureau obtained information [Redacted] and, after further research into Commission records, determined the taxpayer was required to file returns for taxable years 2003 through 2008. The Bureau prepared returns for the taxpayer and sent him a Notice of Deficiency Determination. The taxpayer protested the Bureau's determination.

The taxpayer stated he did not believe he owed any tax to Idaho. He stated that he has lived and worked in [Redacted] since taxable year 2003 and prior to that he lived in [Redacted] where he attended dive school. The Bureau sent the taxpayer a Residency and Domicile Questionnaire to help determine his residency status, but the taxpayer did not respond. The Bureau referred the matter for administrative review.

The Commission sent the taxpayer a letter giving him two alternatives for redetermining the Notice of Deficiency Determination. The taxpayer responded, did not request a hearing, but did agree to complete the Residency and Domicile Questionnaire. The Commission reviewed the information the taxpayer provided in the questionnaire along with information in the file and hereby issues its decision.

In taxable year 2002, the taxpayer left Idaho for schooling in [Redacted]. In taxable year 2003, the taxpayer found employment as a commercial diver in the state of [Redacted]. At this time, the taxpayer moved to [Redacted], where he resides to this day.

Idaho Code section 63-3002 states the intent of the Idaho legislature and the purpose of the Idaho income tax act is to impose a tax on residents of this state measured by Idaho taxable income wherever derived and on the Idaho taxable income of nonresidents which is the result of activity within or derived from sources within this state. Idaho Code section 63-3013A defines a part-year resident as an individual who has changed his domicile to or from Idaho during the taxable year or an individual who has resided in Idaho for more than one day during the taxable year and is present in the state for more than a temporary or transitory purpose.

For taxable years 2003 through 2008, the taxpayer stated he worked as a diver in the [Redacted]. The Bureau asserted that the taxpayer remained domiciled in Idaho while the taxpayer was in [Redacted]. In support of its position, the Bureau points to the facts that the

taxpayer registered vehicles in Idaho in 2006, maintained an Idaho driver's license throughout the years in question, renewing it in 2008, and he maintained an address in Idaho. The taxpayer readily admits to not having the proper driver's license while in Louisiana or registering his vehicles with the state in which he resides. As for the Idaho address, the taxpayer stated the Idaho address is that of his parents. The taxpayer stated he prefers to have important documents sent to his parents address due to his unpredictable work schedule that could require him to be "on the dock" for several days or weeks at a time.

The taxpayer did have, and continues to have, some connections with Idaho. However, the information available lacks a predetermined intent to keep Idaho as his state of domicile. Therefore, the Commission finds that the taxpayer was not required to file Idaho income tax returns for taxable years 2003 through 2008.

THEREFORE, the Notice of Deficiency Determination dated August 11, 2010, and directed to [Redacted] is CANCELLED.

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.
