

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
) DOCKET NO. 24688
[Redacted],)
)
)
Petitioner.) DECISION
)
_____)

[Redacted] (Petitioner) protested the Notice of Deficiency Determination dated October 11, 2011, asserting Idaho income tax, penalty, and interest for taxable years 2003 through 2006 and 2009, in the total amount of \$5,174. Petitioner disagreed with the Tax Discovery Bureau’s determination that he was domiciled in Idaho during taxable years 2003 through 2009. The Tax Commission, having reviewed the file, issues its decision.

BACKGROUND

Petitioner filed a resident Idaho individual income tax return for taxable year 2007, but did not file income tax returns for any of the surrounding taxable years. The Tax Discovery Bureau’s (Bureau) discovery program identifies filing patterns like Petitioner’s and identified Petitioner as a potential Idaho nonfiler. The Bureau sent Petitioner letters asking him about his requirement to file Idaho individual income tax returns. Petitioner did not respond to any of the letters. The Bureau obtained information from [Redacted] and other sources and determined Petitioner was required to file Idaho individual income tax returns, because Petitioner was domiciled in Idaho from 2003 through 2009.

The Bureau prepared Idaho income tax returns for Petitioner for taxable years 2003 through 2006 and 2009. The Bureau determined Petitioner may not have had a filing requirement for taxable year 2008 based on the information available, so a 2008 return was not

prepared. The Bureau sent Petitioner a Notice of Deficiency Determination, which Petitioner protested.

Petitioner stated he was not a resident of Idaho during the years in question. Petitioner stated he worked for his brother in [Redacted] and lived with his brother when working. Petitioner stated he lived out of his van as he traveled throughout western North America. Petitioner stated he used his mother's address in Idaho for his mail, and would stop in from time to time to get relevant mail. Petitioner stated he never spent more than a total of two weeks per year at his mother's place in Idaho, as well as Idaho in general. Petitioner stated whenever he is not working for his brother in [Redacted], he travels to [Redacted] for back country skiing, ice climbing, and rock climbing. Petitioner provided various documents to support his lack of presence in Idaho.

The Bureau reviewed the information provided, acknowledged Petitioner's protest, and referred the matter for administrative review. The Tax Commission reviewed the matter and sent Petitioner a letter explaining the methods available for redetermining a protested Notice of Deficiency Determination. Petitioner contacted the Tax Commission and provided the following additional information.

Petitioner grew up on a farm in [Redacted], Idaho. He graduated from high school in 1997. In the fall of 1997, Petitioner moved to [Redacted] and worked in road construction for one and one half to two years. From 1999 to 2000, Petitioner worked for a jewelry maker [Redacted]. Petitioner stated he spent most of that time in [Redacted].

Petitioner began working for his brother in [Redacted] for the next several years. Petitioner stated he would generally work three to four months as needed. The rest of the time he was off rock climbing, ice climbing, or skiing.

Petitioner stated all the work he has done since he started working with his brother has been in [Redacted]. While working, Petitioner stays with his brother in [Redacted]. Petitioner stated that since the late 1990's when he rented an apartment with his brother in [Redacted], he has not had regular living accommodations. When he was not staying with his brother, Petitioner lived in a camper and in the back of his minivan.

Petitioner stated the vehicles he registered in Idaho are either junkers and parts vehicles, or vehicles for his mother to use on the farm. Petitioner stated his time in Idaho was a few days in the spring to help till the farm, and a few days in the fall to gather wood for his mother. Petitioner does occasionally store tools in Idaho, but generally they go with him, stored in his minivan.

Currently, Petitioner is renting a place in [Redacted], Idaho with his girlfriend. Since Petitioner's girlfriend is on a shift work schedule, Petitioner stated his lifestyle has not changed all that much. As soon as she is off work for several days, they are off to the out-of-doors to pursue their recreational activities.

LAW AND ANALYSIS

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 Idaho Administrative Income Tax 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 the old domicile, intent to acquire a specific new domicile, and the actual physical presence in the new domicile. Pratt v. State Tax Commission, 128 Idaho 883, 885 n.2, 920 P.2d 400, 402 n.2 (1996). Domicile, once established, persists until a new domicile is legally acquired. In re Cooke's Estate, 96 Idaho 48, 524 P.2d 176 (1973).

The Bureau asserts Petitioner was domiciled in Idaho and never fully abandoned or acquired another domicile. While this is true up to 1997, it is questionable whether Petitioner might have acquired a domicile in either [Redacted]. The record shows Petitioner left Idaho in 1997, came back in 1999, and left again in 2000. In most cases, a taxpayer leaves his place of domicile in pursuit of employment, a change of environment, or to start fresh somewhere. In this case, Petitioner left for recreational pursuits.

Petitioner's employment from 2000 to the present is on an as needed basis with his brother in [Redacted] and even then it seems Petitioner only works as long as he wants to work. Petitioner stated he may have worked one day in Idaho during the period in question. Petitioner's only presence in Idaho was maybe two weeks every year to help out on his mother's farm, one week in the spring and one week in the fall. Petitioner stated he traveled throughout the western states when he was not working for his brother.

Petitioner's Idaho contacts were Idaho driver's licenses, an Idaho postal address, vehicles registered and left in Idaho, and a mother living in Idaho. Petitioner may have also left some personal belongings with his mother in Idaho. Nothing in the record suggests Petitioner had any permanent association with Idaho other than it is where his mother lived. The same association could be argued with [Redacted], since petitioner's brother lived in [Redacted].

Looking at the three requirements necessary to change a domicile, it is questionable Petitioner intended anything with regard to his domicile. After Petitioner's graduation and emancipation, Petitioner left Idaho and potentially established a domicile in [Redacted] for one to two years. Petitioner left [Redacted] and worked for a jewelry maker in Idaho, but stated he spent most of his time in [Redacted]. Shortly thereafter, Petitioner began a lifestyle very few individuals enjoy as early in life as he. Petitioner started working with his brother in [Redacted] on an as needed basis. Consequently, Petitioner was able to come and go as he pleased following the seasons and the recreational activities he enjoyed.

Petitioner's physical presence was throughout the western states and [Redacted] but rarely in Idaho. Petitioner's nomadic lifestyle was not conducive to acquiring a domicile in any particular state. However, because Petitioner maintained Idaho ties, albeit very limited ties, that identified Petitioner as an Idaho resident, and since he had even fewer ties to any other state, the Tax Commission finds that Petitioner was domiciled in Idaho for the years in question.

The remaining question then is since Petitioner spent so little time in Idaho during the years in question, did he meet the safe harbor provisions of Idaho Code section 63-3013. Petitioner stated and his mother attested to the fact that Petitioner spent two weeks or less per year in Idaho from 2001 to 2011. This being the case, Petitioner could easily have met the requirements of Idaho Code section 63-3013(2). Petitioner also stated there were many times during these years that he was not in Idaho for over fifteen months other than passing through in the spring and fall.

CONCLUSION

Petitioner's lifestyle was nomadic. His only permanent connections were his mother in Idaho and his brother in [Redacted]. Domicile is primarily determined by an individual's intent.

There must be intent to abandon an existing domicile and intent to acquire a new domicile. From the facts presented, Petitioner had no intent to abandon or intent to acquire anything. Petitioner was free-spirited following the passions of his heart; nevertheless, Petitioner always identified himself with Idaho. Wherever Petitioner went, throughout the western states and [Redacted], Petitioner showed himself connected to Idaho by virtue of his Idaho driver's license and vehicle registration (license plates). Even though Petitioner always returned to [Redacted], he only returned to [Redacted] to work and never intended to settle there. (Petitioner stated he did not like big cities.) Therefore, because a domicile persists until another domicile is acquired; the Tax Commission finds Petitioner never fully abandoned Idaho as his domicile.

However, because Petitioner's lifestyle was such that he spent little to no time in Idaho, the Tax Commission also finds that Petitioner met the safe harbor provision of Idaho Code section 63-3013. As such, Petitioner is considered a nonresident and not required to file Idaho individual income tax returns for the years in question.

THEREFORE, the Notice of Deficiency Determination dated October 11, 2011, and directed [Redacted] is CANCELLED.

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

DATED this _____ day of _____ 2013.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2013, 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.
