

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
[Redacted],) DOCKET NO. 25177
Petitioner.)
DECISION
_____)

[Redacted] (Petitioner) protested the Notice of Deficiency Determination dated May 8, 2012, asserting Idaho income tax, penalty, and interest for taxable year 2008 in the total amount of \$2,555. Petitioner disagreed with the Tax Discovery Bureau’s determination that he was domiciled in Idaho in 2008. The Tax Commission, having reviewed the file, issues its decision.

BACKGROUND

In its review of the tax Commission’s records, the Tax Discovery Bureau (Bureau) found a gap in Petitioner’s Idaho income tax filings. The Bureau sent Petitioner a letter asking about his requirement to file a 2008 Idaho individual income tax return. Petitioner did not respond to the Bureau’s inquiry, so the Bureau obtained information from the [Redacted] and determined Petitioner had an Idaho filing requirement for taxable year 2008. The Bureau prepared an Idaho income tax return for Petitioner and sent him a Notice of Deficiency Determination based upon Petitioner’s 2008 [Redacted] adjusted gross income.

Petitioner contacted the Bureau stating he worked in, and filed an [Redacted] state income tax return for 2008. Petitioner stated he did not believe he was required to file an Idaho income tax return for that year. The Bureau discussed domicile with Petitioner and asked for information to show Petitioner abandoned Idaho as his domicile. The Bureau also asked Petitioner for a copy of his [Redacted] income tax return so that a credit for taxes paid to [Redacted] could be allowed on Petitioner’s Idaho income tax return. Petitioner stated he had a

copy of his W-2 showing income tax withheld for [Redacted] but that he would have to request a copy of his 2008 [Redacted] income tax return from the state of [Redacted]. Shortly thereafter, Petitioner sent in a letter protesting the Notice of Deficiency Determination. The Bureau acknowledged Petitioner's protest and asked that he complete and return a domicile questionnaire.

Petitioner completed and returned the domicile questionnaire, which the Bureau reviewed and found inconclusive for the determination of Petitioner's domicile. Consequently, the Bureau began looking for other information to show where Petitioner was domiciled. The Bureau found such things as Idaho driver's licenses, Idaho resident fish and game licenses, resident Idaho income tax returns, and a non-resident [Redacted] income tax return. Because of these factors, the Bureau was unwilling to change its domicile determination, so the matter was referred for administrative review.

The Tax Commission reviewed the matter and sent Petitioner a letter discussing the options for redetermining a protested Notice of Deficiency Determination. Petitioner failed to respond to the Tax Commission's letter sent to the address Petitioner provided, so the Tax Commission sent a second letter to the address Petitioner provided on his 2012 Idaho income tax return. Nevertheless, Petitioner still failed to respond. Therefore, seeing Petitioner had the opportunity to substantiate his position but failed to do so, the Tax Commission decided the matter based upon the information available.

LAW AND ANALYSIS

The issue presented in this case is where Petitioner's domicile was in 2008. It is a fundamental rule of law that all persons have a domicile somewhere. Taylor v. Milam, 89 F. Supp. 880, 881 (W.D. Ark. 1950); ex parte Phillips, 275 Ala. 80, 152 So. 2d 144, 146 (1963).

Equally, no person has more than one domicile at a time. Smith v. Smith, 45 Cal. 2d 235, 288 P.2d 497, 499 (1955).

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, 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. Domicile, once established is never lost until there is a concurrence of a specific intent to abandon an old domicile, intent to acquire a specific new domicile, and the actual physical presence in a new domicile.

Petitioner filed Idaho resident income tax returns for each of the taxable years 2001 through 2007. Petitioner also filed resident individual income tax returns for taxable years 2009, 2011, and 2012. Petitioner stated on each of the Idaho fish and game licenses he purchased from 2000 through 2012, that he was a resident of Idaho and domiciled in Idaho since his birth in 1981. Therefore, it is reasonable to assume Petitioner's domicile of origin and domicile through 2007 was Idaho. This being the case, the question becomes did Petitioner abandon Idaho in 2008 and acquire a domicile in another state?

Petitioner stated in the domicile questionnaire that he began taxable year 2008 living in [Redacted], Idaho. In March 2008, Petitioner was in [Redacted] working on a hotshot fire crew. Petitioner stated he planned on moving to [Redacted] permanently, but when he wasn't rehired Petitioner's plans changed. Petitioner's stay in [Redacted] was between seven and eight months. Petitioner stated the last two to three months of 2008 he traveled through [Redacted], and Idaho.

Generally, domicile is evidenced by where an individual has his primary home, where his business involvement is, where he spends most of his time, where he keeps his near and dear items, and where his family connections are located. In this case, Petitioner did not identify a particular location that would be considered his primary abode or home. Petitioner stated he used his mother's address in Idaho, since her address has never changed. Petitioner stated he had a lease with the [Redacted] when he was in [Redacted]. Petitioner stated when his employment ended in October, he did not rent anywhere because he was in a travel mode.

As for Petitioner's business involvement, Petitioner was paid by the Department of [Redacted] for employment with a [Redacted]. Some of this income, albeit very small, was reported as Idaho wages, presumably for Petitioner's time spent in Idaho before moving to [Redacted]. Petitioner also received over \$4,000 of unemployment compensation from Idaho.

Petitioner's time was spent in several of the western states and in [Redacted]. Over half of Petitioner's time was in [Redacted]; however, it appears to be only for employment purposes. Petitioner's time spent in [Redacted] was traveling as a vacationer or visitor. Petitioner's time in Idaho began and ended in taxable year 2008. Other than his employment in [Redacted] Petitioner's leaving and returning to Idaho was the one place Petitioner spent a greater portion of his time than any other.

Petitioner stated when he was in Idaho he sometimes stayed with his father. He also stated he used his mother's Idaho address as his mailing address. These are the only family connections mentioned by Petitioner, and tend to show his parents lived in Idaho.

Petitioner did not mention any items, hobbies, activities, etc. that would indicate what was near and dear to him or where the items were kept and activities performed. However,

considering Petitioner appeared to be very mobile during this period, Petitioner's near and dear things were likely either with him or stored in Idaho.

From the information available, the Tax Commission found that Petitioner established a "paper trail" that identified him with Idaho. The paper trail consists of an Idaho driver's license, which Petitioner renewed in October 2008, Idaho resident fish and game licenses, filing a non-resident [Redacted] income tax return for taxable year 2008, and filing resident Idaho income tax returns for the surrounding taxable years. These documents show Petitioner identified himself with Idaho.

Regardless of Petitioner's domicile, Petitioner received income from an Idaho source, Idaho unemployment compensation. That income by itself required Petitioner to file an Idaho income tax return for taxable year 2008.

CONCLUSION

Petitioner was domiciled in Idaho prior to taxable year 2008. Petitioner may have planned to abandon Idaho and acquire [Redacted] as his domicile when he left Idaho in 2008 for employment in [Redacted]. However, Petitioner did not remain in [Redacted] and returned to Idaho by the end of 2008. Petitioner failed to establish himself in [Redacted]. Therefore, since Petitioner did not totally abandon Idaho or fully commit to [Redacted], the Tax Commission finds Petitioner's domicile remained with Idaho. As a result, Petitioner was required to file a 2008 Idaho individual income tax return reporting his income from all sources to Idaho.

The Bureau modified its original audit report to include a credit for taxes paid to [Redacted]. The Tax Commission reviewed that modification and found it appropriate.

The Bureau also added interest and penalty to Petitioner's Idaho tax. The Tax Commission reviewed those additions and found them appropriate and in accordance with Idaho Code sections 63-3045 and 63-3046.

THEREFORE, the Notice of Deficiency Determination dated May 8, 2012, and directed to [Redacted] is hereby AFFIRMED as MODIFIED by this decision.

IT IS ORDERED that Petitioner pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2008	\$1,106	\$277	\$209	\$1,592

DEMAND for immediate payment of the foregoing amount is hereby made and given.

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.
