

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 25471
[Redacted],)	
)	
Petitioners.)	DECISION
_____)	

BACKGROUND

On July 9, 2012, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted](Petitioners) proposing income tax, penalty, and interest for taxable year 2008 in the amount of \$498. The Petitioners protested saying that they were living and working in [Redacted] for more than 6 months during 2008.

ISSUES

1. Whether the Petitioners are required to file a 2008 Idaho individual income tax return.
2. Whether the Petitioners were Idaho residents when they worked outside the state for more than six months during one taxable year.
3. Whether the Idaho income tax liability calculated by the Bureau is correct.

LAW

Idaho Income Tax Administrative Rule:

030.02. Domicile. The term domicile means 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. An individual can have several residences or dwelling places, but he legally can have but one domicile at a time.

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

Idaho Code section 63-3030.

“Persons required to make returns of income. (a) Returns with respect to taxes measured by income in this chapter shall be made by the following:

(1) Every resident individual required to file a federal return under section 6012(a)(1) of the Internal Revenue Code.

(2) Any nonresident individual having for the current taxable year a gross income from Idaho sources in excess of two thousand five hundred dollars (\$2,500), or any part-year resident individual having for the current taxable year a gross income from all sources while domiciled in or residing in Idaho, and from Idaho sources while not domiciled in and not residing in Idaho, which in total are in excess of two thousand five hundred dollars (\$2,500)...

DISCUSSION

This is a non-filer case. [Redacted] worked at least part of the year in Boise. There is a W-2 that was received by the Commission showing that he had earnings during taxable year 2008 of \$3,145 in Idaho. Records filed with the Commission show that Petitioners owned a house in Boise. The Petitioners don't dispute that. Records also show that [Redacted] had a resident driver's license, and a resident Fish and Game license during 2008.

The Petitioners' position is that they don't have to file because of working and living in [Redacted] part of taxable year 2008.

On March 5, 2013, the Commission sent the taxpayer a letter that explained the methods available for redetermining an NODD. The Petitioners did not respond.

CONCLUSION

The Commission does not agree that Petitioners have effectively changed their domicile as required in Rule 030.02, therefore they are Idaho residents. The Petitioners meet the filing requirements in Idaho Code section 63-3030 based on information filed with the Commission that they had Idaho source income greater than \$2,500. Based on the information filed with the Commission the NODD the Bureau prepared is correct.

THEREFORE, the NODD dated July 9, 2012, and directed to The Petitioners is hereby AFFIRMED.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
12/31/08	354	89	64	<u>507</u>
			TOTAL	<u>\$507</u>

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

An explanation of the Petitioners' 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.
