

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 25121
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

[Redacted] (Petitioner) protested the Notice of Deficiency Determination dated November 15, 2011, asserting Idaho income tax, penalty, and interest for taxable years 2005 and 2006, in the total amount of \$930. Petitioner disagreed with the Tax Discovery Bureau’s determination that he was domiciled in Idaho during those taxable years. The Tax Commission, having reviewed the file, issues its decision.

BACKGROUND

Petitioner filed resident Idaho individual income tax returns for taxable years 2002 through 2004, and for taxable years 2007 through 2011. Petitioner did not file Idaho income tax returns for taxable years 2005 and 2006. 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 the Bureau’s letters. The Bureau obtained information from the [Redacted] and determined Petitioner was required to file Idaho individual income tax returns for 2005 and 2006.

The Bureau prepared Idaho income tax returns for Petitioner and sent him a Notice of Deficiency Determination. Petitioner protested the Bureau’s determination stating he did not live or work in Idaho in 2005 or 2006. Petitioner stated he was a [Redacted] and during those

years he lived mostly in [Redacted]. Petitioner stated he did not change his Idaho driver's license and he left his mailing address as his parents', since he was traveling a lot.

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.

In February 2005, Petitioner left Idaho to pursue a career as a [Redacted]. Petitioner's career began with [Redacted] in [Redacted]. Petitioner stated when he left Idaho, he had no intention of returning; he was not sure what was going to happen as he began [Redacted]. Petitioner stated he moved everything (which was not much) to [Redacted]. Petitioner stated he came back to Idaho for a couple of days in September 2005, after the [Redacted] ended. He was then back in Idaho for a couple more days in November for Thanksgiving. Petitioner stated he was in [Redacted] [Redacted] until it was time for [Redacted] in [Redacted]. Petitioner stated he did not come back to Idaho until November 2006, when he passed through on his way to [Redacted], [Redacted]. Petitioner stated his next visit to Idaho was Christmas 2006 for four days.

Petitioner stated it was in 2005 that he met his now ex-wife, whose family lived in [Redacted] state. Petitioner stated, beginning in 2005, he and his ex-wife alternated Thanksgiving and Christmas with their respective families in Idaho and [Redacted]. Petitioner stated he and his ex-wife purchased a house in Idaho on December 10, 2007. Petitioner stated they purchased the Idaho house because Petitioner's ex-wife was thinking about going back to school. Petitioner stated the only times he was in Idaho in 2005 and 2006 was to visit his

parents, to put on a [Redacted] at the [Redacted], and when he was passing through on his way to [Redacted].

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. It is undisputed Petitioner was domiciled in Idaho prior to leaving Idaho in 2005 for [Redacted]. Petitioner stated he maintained his Idaho driver's license and registered his vehicle in Idaho. Petitioner stated he bounced between the states of [Redacted], [Redacted], following his [Redacted]. Petitioner never really established himself in any of these states. He never acquired those things that would identify him with any of those states. Consequently, even though Petitioner left Idaho with no real intention to return and he was physically presence in other states, Petitioner did not demonstrate that he acquire a domicile in

any of the other states. Therefore, 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 2005 and 2006, did he meet the safe harbor provisions of Idaho Code section 63-3013? Petitioner stated he was only in Idaho for alternating holidays and a few other days here and there. Petitioner recounted the number of days he was in Idaho during the first fifteen months of his absence. That number was within the acceptable number of days Petitioner could be in Idaho and still meet the requirements of Idaho Code section 63-3013(2). Therefore, regardless of whether Petitioner was domiciled in Idaho, his time outside Idaho qualified him to be treated as a nonresident of Idaho.

CONCLUSION

Petitioner's career as a [Redacted] caused Petitioner to move from state to state. Petitioner's domicile prior to [Redacted] was Idaho. Since a domicile persists until another domicile is acquired, and Petitioner never acquired another domicile, the Tax Commission finds Petitioner was still domiciled in Idaho for taxable years 2005 and 2006. However, because Petitioner was absent from Idaho for the required time, 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 taxable years 2005 and 2006.

THEREFORE, the Notice of Deficiency Determination dated November 15, 2011, and directed to [Redacted] is CANCELLED.

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

DATED this _____ day of _____ 2014.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2014, 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.