

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
[Redacted],) DOCKET NO. 26201
)
)
Petitioners.) DECISION
)
_____)

On December 13, 2013, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] and [Redacted] (taxpayers), proposing income taxes, penalties, and interest for taxable years 2008 through 2012, in the total amount of \$15,090.

On February 13, 2014, the taxpayers filed a timely appeal and petition for redetermination. The taxpayers did not respond to the Commission’s hearing rights letter and have not provided anything further for the Commission to consider. The Commission, having reviewed the file, hereby issues its decision.

The Tax Discovery Bureau (Bureau) received information that the taxpayers may be required to file Idaho individual income tax returns. The Bureau researched the Commission’s records and found that the taxpayers had not filed Idaho income tax returns for the aforementioned years. The Bureau sent the taxpayers a letter asking about their requirement to file Idaho individual income tax returns. The taxpayers responded that they were not required to file returns in Idaho for the years mentioned above because, “[Redacted] and [Redacted] live and work and are residents of [Redacted] and are not required to file Idaho tax return. We have been [Redacted] residents for over 5 years.”

The Bureau obtained additional information from the [Redacted], the [Redacted] County Assessor, the Federal [Redacted] Administration, and the Idaho Department of Motor Vehicles.

The Bureau determined the taxpayers did have a filing requirement for taxable years 2008 through 2012. The Bureau prepared individual income tax returns for the taxpayers and sent them an NODD.

A timely protest of the NODD was filed by taxpayers. The protest reiterated the taxpayers' claim of [Redacted] residency and individually addressed the five factors used by the Bureau to determine domicile.

The Bureau referred the matter for administrative review. The Commission sent the taxpayers a letter discussing the methods available for redetermining the NODD. The taxpayers did not respond. Therefore, the Commission decided the matter based upon the information available.

The Bureau had information that indicated the taxpayers may need to file Idaho individual income tax returns for taxable years 2008 through 2012. The Bureau found that there was no record of the taxpayers filing Idaho income tax returns for the previously mentioned years. The taxpayers stated that while they did own a home in [Redacted], Idaho, that they are [Redacted] residents and have been since they accepted employment there in taxable year 2007. As [Redacted] residents, the taxpayers contend they are, therefore, not required to file Idaho income tax returns.

Determining domicile is not always clear or easy, yet the outcome of the decision has far-reaching consequences. Often times, the terms "residency" and "domicile" are confused, but Idaho Income Tax Rule 030.02 defines domicile as:

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. 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.

The key to understanding domicile based upon this rule is the intent of the individual. Determining the intent of an individual is not a bright-line test; rather, the determination is made using the totality of the evidence before the Commission and making a determination based upon the available information. This decision hinges upon where the taxpayers were domiciled in taxable years 2008 through 2012. The long-established rule is that “[w]here a change of domicile is alleged, the burden of proof rests upon the party making the allegation.” Desmare v. United States, 93 U.S. 605, 610, (1876), Pratt v. State Tax Comm’n, 128 Idaho 883, 884, 920 P.2d 400, 401 (1996). The burden rests with taxpayers to prove that they abandoned their domicile in Idaho and established a domicile in another state, and until that burden is met, Idaho continues to be their domicile.

The Bureau relied upon numerous factors in the determination that Idaho domicile had not been abandoned; none of which, by itself, is dispositive of domicile, but rather as a whole, the factors were used to determine that the taxpayer had not established any other state as their new domicile.

The Bureau found that the taxpayers purchased property on [Redacted] in [Redacted] Idaho, in January of 2005, and began claiming the homeowner’s exemption on that property the same year. The taxpayers filed Idaho resident income tax returns for taxable years 2005 through 2007. [Redacted] applied for, and was issued, an eight year Idaho driver’s license on November 6, 2009. [Redacted] maintained an Idaho driver’s license from 2005 through 2009; he did obtain a [Redacted] driver’s license in 2009. [Redacted] completed a voter’s registration card on May 23, 2006, but did not vote. [Redacted] also registered to vote in Idaho and voted in primary, general, and local elections in 2006, 2008, 2009, 2010, and 2012. Additional research by the

Bureau showed the taxpayers maintained Idaho registrations for vehicles and a travel trailer beginning in 2005. The taxpayers also registered an [Redacted] in Idaho from 2005 through 2011.

The taxpayers bear the burden of showing that they abandoned their domicile in Idaho and established a new domicile in another state. Determining domicile is a mixed question of fact and law. Conduct is often more persuasive than expressions, since that reflects the intent of the individuals. The United States Tax Court has determined that “where there is any doubt as to one’s domicile, the domicile of origin prevails.” Webb v. C.I.R., 72 T.C.M. (CCH) 1522 (T.C. 1996).

Individuals frequently move across state lines; abandoning an old domicile and establishing a new one. The burden of proving intent to abandon an old and establish a new domicile is not very great, and there are consequences, sometimes significant tax consequences, when individuals move. Taxpayers give up the benefits of being domiciled in their old state and take advantage of the benefits of the new state; they cannot take advantage of benefits from both states. In this case, the taxpayers admit to owning property in Idaho, registering vehicles and an [Redacted] in Idaho, registering to vote in Idaho and obtaining Idaho driver’s licenses, but claim they are [Redacted] residents. A review of the taxpayers’ [Redacted] income tax returns and other income information in Commission records, such as 1099’s, W-2’s, etc., with the exception of one, all show an Idaho address. The taxpayers listed an address in [Redacted], either a P.O. Box or the [Redacted] where they are employed, as their current address, but have provided little else to identify them with the state of [Redacted].

The Bureau determined, and the Commission agrees, that based on the information contained in the file, the taxpayers were domiciled in Idaho and, therefore, were required to file

Idaho individual income tax returns. The Idaho individual income tax returns the Bureau prepared on behalf of the taxpayers were based on income information gleaned from the taxpayers' [Redacted] income records. The Bureau added interest and penalty to the taxpayers' Idaho tax. The Commission reviewed those additions and found them appropriate and in accordance with Idaho Code sections 63-3045 and 63-3046, respectively.

THEREFORE, the Notice of Deficiency Determination dated December 13, 2013, and directed to [Redacted] and [Redacted] is hereby APPROVED and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2008	\$1,961	\$490	\$437	\$ 2,888
2009	1,931	483	334	2,748
2010	2,455	614	309	3,378
2011	1,975	494	169	2,638
2012	2,836	709	138	<u>3,683</u>
			TOTAL DUE	<u>\$15,335</u>

Interest is computed to September 5, 2014.

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

An explanation of the taxpayers' 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.

Receipt No.
