

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 38998
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

On June 9, 2014, the Revenue Operations Division of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (petitioner), proposing individual income tax and interest for taxable year 2013 in the total amount of \$712.56.

The petitioner filed a timely appeal and petition for redetermination. She did not request a hearing. The Commission has reviewed the file, is advised of its contents, and hereby issues its decision.

The petitioner timely filed an Idaho Form 43, Part-year and nonresident income tax return for taxable year 2013, reporting only a portion of her total income to Idaho. However, Commission records, and information available to the Commission, indicate that the petitioner appears to be an Idaho resident for taxable year 2013 and, therefore, required to file a Form 40. Revenue Operations sent the petitioner a request for information letter to help determine her residency status. The petitioner did not respond. Revenue Operations adjusted the petitioner's 2013 return to a Form 40, included all income reported on the petitioner's [Redacted] return, and issued her an NODD.

The petitioner appealed the NODD, stating that she did not believe she owed the amount of Idaho taxes shown in the deficiency. The petitioner also stated she lived out of the country from December 27, 2012 until April 20, 2013, when she moved to [Redacted], returning to Idaho on October 1, 2013. The petitioner's file was transferred to the Legal/Tax Policy Division for administrative review.

Idaho Code § 63-3013 defines a resident for income purposes as an individual who:

- (a) Is domiciled in the state of Idaho for the entire taxable year; or
- (b) Maintains a place of abode in this state for the entire taxable year and spends in the aggregate more than two hundred seventy (270) days of the taxable year in this state. Presence within the state for any part of a calendar day shall constitute a day spent in the state unless the individual can show that his presence in the state for that day was for a temporary or transitory purpose.

Idaho Income Tax Administrative Rule 030 also provides guidance with respect to the definition of a resident, in relevant part, as follows:

030. RESIDENT (RULE 030).

Section 63-3013, Idaho Code.

01. Resident. The term resident applies to individuals, estates, and trusts.

a. An individual is a resident if he meets either of the tests set forth in Section 63-3013, Idaho Code.

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.

b. All individuals who have been domiciled in Idaho for the entire taxable year are residents for Idaho income tax purposes, even though they have actually resided outside Idaho during all or part of the taxable year, except as provided in Section 63-3013(2), Idaho Code.

c. An individual meeting the safe harbor exception set forth in Section 63-3013(2), Idaho Code, is not considered a resident of Idaho. Any individual meeting the safe harbor exception to residency status is either a nonresident or part-year resident.

d. The safe harbor exception to being a resident of Idaho does not apply to a servicemember or a servicemember's spouse domiciled in Idaho if the Servicemembers Civil Relief Act applies to the individual.

Idaho Code section 63-3002 states the intent and purpose of the Idaho Income Tax Act:

[T]o impose a tax on residents of this state measured by Idaho taxable income wherever derived and on the Idaho taxable income of nonresidents which is the result of activity within or derived from sources within this state.

In the present case, the petitioner has filed Idaho resident income tax returns each year since taxable year 2006, maintained an Idaho driver's license throughout, and registered and titled a vehicle in Idaho in November, 2012. Income information available to the Commission also indicates that in past years, the petitioner has also worked out-of-state for a period of time, always returning to Idaho.

Since the petitioner has failed to establish that she was other than a resident, the Commission finds that she should be taxed as a resident of Idaho.

THEREFORE, the Notice of Deficiency Determination dated June 9, 2014, and directed to [Redacted] is hereby AFFIRMED and MADE FINAL.

IT IS ORDERED that the petitioner pay the following tax and interest:

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2013	\$711	\$28	\$739

Interest is calculated through March 25, 2015.

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 _____ 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.
