

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 24548
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

On August 18, 2011, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (Petitioner) proposing income tax, penalty, and interest for taxable years 2003 through 2009 in the total amount of \$5,424. Petitioner disagreed with the Bureau’s determination that she was domiciled in Idaho and required to file Idaho individual income tax returns for those taxable years.

Petitioner filed a timely protest. The Commission sent Petitioner a hearing rights letter explaining the methods available for the redetermination of the NODD. Petitioner did not respond; she did not request a hearing nor did she provide any additional information for consideration. Therefore, the Commission, having reviewed the file, hereby issues its decision based upon the information contained in the file.

Background

Prior to 2002, Petitioner was not domiciled in Idaho, as shown by her 2001 Form 43 nonresident Idaho state income tax return. However, in 2002, the Commission believes that Petitioner established her domicile in Idaho based on the research and information provided to the Commission.

In 2002, Petitioner held herself out to be an Idaho resident. In May 2002, Petitioner registered to vote in [Redacted] County, Idaho. Petitioner stated on her voter registration form

that she had been a resident of Idaho for the previous eight months; that put her residing in Idaho since September 2001. Furthermore, Petitioner exercised her right to vote by participating in the May 2002 primary election and again in the November 2002 general election. In addition, Petitioner registered two vehicles in Idaho on two different occasions. The first occurred in October 2001, around the same time that she indicated that she began residing in Idaho. The second vehicle registration occurred in September 2002. Also, in October 2002, Petitioner applied for, and obtained, an Idaho driver's license. The address she used in order to register to vote, to register her vehicle, and to obtain her driver's license was [Redacted], Idaho. It was also provided that she began working for an Idaho company in 2002.

From January 2003 to November 2005, Petitioner worked at [Redacted], [Redacted] in [Redacted], [Redacted]. From December 2003 to April 2004, Petitioner was also employed by the [Redacted], [Redacted]. During this same time, Petitioner claims to have resided in [Redacted], but did not sign any leases at the various residences she stayed at. It is unclear how many different residences Petitioner occupied during this time.

From December 2005 to April 2006, Petitioner continued to work for [Redacted] and the [Redacted]. However, at this time, she stated she moved to and resided at [Redacted], [Redacted]. Again, she did not sign a lease for this residence.

Beginning in May 2006 through December 2006, Petitioner stated she moved to and sub-leased a room at [Redacted], [Redacted]. Otherwise, she stated she resided at [Redacted], [Redacted]. Again, Petitioner did not sign a lease for any of these residences. During this time, Petitioner was employed at [Redacted].

Petitioner stated that from January 2003 to December 2006 she had a [Redacted], [Redacted].

At the beginning of 2007, Petitioner stated she spent time in a medical facility and afterward, spent time recovering with friends and family in both Idaho and [Redacted]. In April 2007, Petitioner found seasonal employment with [Redacted], [Redacted] and started work there on May 1, 2007. Once employed, Petitioner stayed with friends until June 1, 2007, when Petitioner entered into a lease with [Redacted] and resided at [Redacted] [Redacted]. On June 1, 2008, Petitioner again entered a lease with the same employer and resided at the same address. Petitioner provided copies of these leases.

From June 2009 through August 2009, Petitioner worked and lived in [Redacted]. Her employer was [Redacted] based in [Redacted], [Redacted]. From October 2009 to November 2009, Petitioner worked and lived in [Redacted], [Redacted] while continuing to work for [Redacted] In December 2009, Petitioner went to [Redacted] to celebrate the holidays with her family and to attend her brother's wedding.

From June 2007 to December 2009, Petitioner had a [Redacted], [Redacted]. In 2008, Petitioner stated she registered to vote in [Redacted] since she had a lease agreement. Petitioner stated she exercised her right to vote in [Redacted] in the 2008 and 2010 general elections. Throughout this time, Petitioner never applied for a [Redacted] driver's license. Also, Petitioner maintained her physical address as [Redacted], [Redacted], and had mail sent there.

Law

Under Idaho Code § 63-3030(1), every resident individual required to file a federal return is required to file an Idaho return. The general rule is that the income of an “individual resident” is subject to state taxation. Idaho Code § 63-3026. Furthermore, a resident for income tax purposes is defined as an individual who is domiciled in Idaho for the entire taxable year or someone who maintains a place of abode in the state for 270 days. Idaho Code § 63-3013. At issue here is whether Petitioner was domiciled in Idaho and, therefore, required to file Idaho resident income tax returns reporting her income from all sources.

Domicile is defined in the Administrative Rules of the Idaho State Tax Commission 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.” IDAPA 35.01.01.030.02. In Idaho, in order to change or establish domicile, three things are required: a concurrence of 1) an actual physical presence at a new domicile, 2) an intent to acquire a specific new domicile, and 3) a specific intent to abandon an old domicile. IDAPA 35.01.01.030.02.a. Intent is manifested by the person’s actions and declarations; however, actions are accorded more weight than declarations since declarations can be self-serving. *See Dist. Of Columbia v. Murphy*, 314 U.S. 441, 456 (1941); *Allan v. Greyhound*, 583 P.2d 613, 614 (1978). Once domicile is established, it persists until another is legally acquired. *In re Cooke’s Estate*, 96 Idaho 48, 59 (1973).

In determining domicile, the fact-finder must look at all the surrounding facts and circumstances. The Commission looks to a set of primary factors and other factors to determine an individual’s domicile. The primary factors are: 1) home, 2) business involvement, 3) time spent, 4) near and dear items, and 5) family connections. Other factors used to determine

domicile include: 6) active community involvement, 7) mailing address where financial statements and bills etc. are primarily received, 8) location of vehicle registration and individual's personal driver's license, 9) where an individual is registered to vote and the exercise of such privilege, and 10) frequency and nature of business conducted in Idaho such as professional visits, i.e. banking, doctors, attorneys etc.

No one factor is determinative. Rather, the decision-maker must analyze all the relevant facts and determine whether, taken as a whole, those facts point in favor of some particular place as the person's domicile. The burden of showing a change in domicile is on the party claiming that a change of domicile was created. State of Texas v. State of Florida, 306 U.S. 398, 472 (1939).

Analysis

The Commission has determined that 1) Petitioner became domiciled in Idaho in 2002 and 2) never legally acquired another domicile. In 2002, Petitioner was physically present in Idaho and concurrently had the intent to acquire her new domicile in Idaho as evidenced by the following facts and circumstances.

I. Petitioner became domiciled in Idaho in 2002

In 2002, it is not known exactly where Petitioner's home was. However, Petitioner's actions provide strong circumstantial evidence that she intended Idaho to be her new domicile.

In May 2002, Petitioner registered to vote in Idaho. On Petitioner's voter's registration form, she stated that she had been a resident of Idaho for the previous eight months. In order to vote in Idaho, a person must be domiciled in Idaho. *See* Idaho Code 34-107(1). Also, in order to qualify to vote, the person cannot be here on a temporary basis only. Idaho Code 34-107(4). By registering to vote in Idaho, Petitioner declared that she was an Idaho resident and affirmed her domicile in Idaho. In addition, Petitioner exercised her right to vote in Idaho both in the primary

election on May 28, 2002, and in the general election on November 5, 2002.

In October 2002, Petitioner applied for, and obtained, an Idaho driver's license. Under Idaho law, only residents who have established their domicile in Idaho can obtain an Idaho driver's license. Idaho Code 49-303(13); 49-119(12). By applying for and receiving an Idaho driver's license, Petitioner declared that she was an Idaho resident; Petitioner affirmed to an Idaho state agency that she was domiciled in Idaho.

Petitioner registered a vehicle in Idaho in October 2001 and again registered another vehicle in Idaho in September 2002. In order to register a vehicle in Idaho, an individual must establish his or her domicile in Idaho. Idaho Code 49-119(12). Furthermore, every owner of a vehicle registered by a county assessor shall give his physical domicile residence address to the assessor. Idaho Code 40-401B(5). A vacation home or part-time residence does not constitute a domicile. Idaho Code 49-401B(5). Petitioner stated that [Redacted], was her physical domicile residence, by using it to register her vehicles, and not her vacation home or part-time residence. By registering her vehicle in Idaho, Petitioner declared that she was an Idaho resident; Petitioner affirmed to an Idaho agency that she was domiciled in Idaho.

Federal Tax Information indicates that Petitioner began working in Idaho in 2002. In that year she worked for an Idaho company. Petitioner has not provided any information where the work took place in 2002 while working for this Idaho company. Thus, without further information, it is presumed that the work occurred in Idaho. Therefore, according to this fact and without further information, Petitioner had business ties to Idaho in 2002.

The fact that she registered to vote, registered two vehicles in Idaho in two different years, and obtained an Idaho driver's license (all which require her to be domiciled in Idaho), indicates that Petitioner physically spent a significant amount of time in Idaho and intended Idaho to be

her new domicile.

The Commission concludes that in 2002, Petitioner successfully changed her domicile to Idaho because she was physically present in Idaho and her actions demonstrated her intent for Idaho to be her new domicile as evidenced by the aforementioned facts and circumstances.

II. Petitioner did not legally change her domicile to [Redacted]

Overall, Petitioner seems to have met the physical presence requirement in order to establish a new domicile in [Redacted] because she claims to have resided there and her work history shows that she worked in [Redacted]. However, there are facts that indicate she did not intend to make [Redacted] her new domicile. For example, she never established herself enough in [Redacted] to be able to qualify for a [Redacted] driver's license or to vote in [Redacted]. Her actions indicate that it was not her intent to be domiciled in [Redacted] since she never bothered to take the necessary measures to establish herself in [Redacted] in order to be able to register to vote (until 2008), obtain a driver's license, or to register her car in [Redacted].

Furthermore, there is support that Petitioner did not intend to completely abandon Idaho as her domicile. For example, even when Petitioner resided and worked in [Redacted], she maintained her right to vote in Idaho and exercised that right by participating in general and special elections in 2004, 2006, and 2007.

Petitioner renewed her Idaho driver's license in 2006 and again in 2010. Both these renewals statutorily required that Petitioner be domiciled in Idaho to qualify for the license.

Petitioner kept a mailing address of [Redacted], through all these years and had her financial bills sent to that address. Petitioner purchased property in [Redacted], Idaho, during these years. Petitioner also had professional ties in Idaho. In 2006 and 2007, she received a 1099 INT from the [Redacted], which is located only in Idaho. Thus, through the years, as evidenced

by her actions, Petitioner held herself out to be an Idaho resident, and therefore, never had the intent to completely abandon her domicile in Idaho.

Because there are facts to support that Petitioner did not intend to abandon her domicile in Idaho, the Commission concludes that Petitioner did not legally acquire another domicile. Therefore, her Idaho domicile established in 2002 persisted for the taxable years 2003-2009.

Conclusion

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Comm'n, 110 Idaho 572 (Ct. App. 1986). Based upon the available facts and information, the Commission is not convinced Petitioner's domicile changed to [Redacted]. Therefore, since Petitioner's domicile was Idaho, established in 2002, and that domicile persists until changed, the Commission finds that Petitioner is required to file Idaho resident individual income tax returns for taxable years 2003 through 2009.

THEREFORE, the NODD dated August 18, 2011, is hereby AFFIRMED.

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>
2003	\$212	\$ 53	\$116	\$ 381
2004	659	165	345	1,169
2005	579	145	266	990
2006	514	129	211	854
2007	387	97	121	605
2008	957	239	249	1,445
2009	340	85	79	504
			TOTAL DUE	<u>\$5,948</u>

Interest is calculated to October 16, 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 _____ 2015.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2015, 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.
