

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 0-800-594-976
[Redacted])	
)	
Petitioner.)	DECISION
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On April 29, 2015, the staff of the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination to **[Redacted]** (petitioner), proposing income taxes, penalties, and interest for taxable years 2007 through 2011 in the total amount of \$13,159.

On June 30, 2015, the petitioner submitted a timely appeal and petition for redetermination. The petitioner did not respond to the Commission’s hearing rights letter and has provided no additional information. The Commission, having reviewed the file, hereby issues its decision.

Commission records indicate the petitioner appears to be an Idaho resident who met the Idaho individual income tax filing requirements. The Bureau sent the petitioner a letter asking about his filing requirement with the state of Idaho for the taxable years 2007 through 2011. The petitioner did not respond. The Bureau gathered further information on the petitioner and determined he did have a filing requirement for the aforementioned years. The Bureau prepared returns for the petitioner and sent him a Notice of Deficiency Determination.

The petitioner protested the Bureau’s determination. He stated he was not a resident of Idaho, but rather a resident of Washington State and therefore does not owe the balance shown in the deficiency determination. The petitioner stated the Idaho address, which the Commission has on file for him, is his father’s address and is used for mail only. The Bureau acknowledged the petitioner’s protest and continued to work with him for several months in an attempt to resolve

the matter. When it became apparent the matter would not be resolved within the Bureau, the petitioner's file was forwarded to the Appeals division of the Commission for administrative review.

The Commission sent the petitioner a letter giving him two options for having the Notice of Deficiency Determination redetermined. The petitioner did not respond. Therefore, the Commission decided the matter based upon the information currently available.

The information the Bureau gathered during its research of the petitioner included the petitioner acquiring an Idaho driver's license for the years 2004, 2006, 2007, 2008 and 2011. The petitioner also purchased an Idaho resident fish and game license in 2010, stating he was a resident and domiciled in Idaho since August 1985. The petitioner registered vehicles in Idaho in 2007, 2008, 2010 and 2011.

The Bureau sent the petitioner a residency/domicile questionnaire which the petitioner completed and returned. The Bureau reviewed the information contained in the questionnaire but the information provided by the petitioner was limited.

Domicile is defined in IDAPA 35.01.01.030 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 an old domicile, intent to acquire a specific new domicile, and the actual physical presence in a new domicile.

It is a fundamental rule of law that all persons have a domicile somewhere. Taylor v. Milam, 89 F.Supp. 880, 881 (W.D. Ark. 1950); ex parte Phillips, 275 Ala. 80, 152 So. 2d 144, 146 (1963). Equally, no person has more than one domicile at a time. Smith v. Smith, 45 Cal. 2d 235, 288 P.2d 497, 499 (1955). 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).

Generally, domicile is evidenced by where an individual has his primary home, where his business involvement is, where he spends most of his time, where he keeps his near and dear items, and where his family connections are located. In this case, the petitioner revealed very little of this information. He stated he had a father in Idaho, a son living with him in Washington, that he worked in Washington and his near and dear items were with him in Washington.

However, the petitioner did leave what is commonly called a “paper trail.” The paper trail consists of obtaining Idaho driver’s licenses, purchasing resident fish and game licenses, and registering motor vehicles in Idaho. This documentation shows the petitioner considered himself an Idaho resident at those times. Therefore, the Commission found that the petitioner established a domicile in Idaho as early as 2004.

Domicile, once established, persists until a new domicile is legally acquired. In re Cooke’s Estate, 96 Idaho 48, 524 P.2d 176 (1973). As previously stated, a concurrence of three factors must occur to change an individual’s domicile: (1) the intent to abandon the present domicile, (2) the intent to acquire a new domicile, and (3) physical presence in the new domicile. IDAPA 35.01.01.030.02.a. Domicile is evidenced by a petitioner’s actions and declarations. Generally, actions are accorded more weight in domicile decisions since declarations can tend to be self-serving. Allen v. Greyhound Lines, Inc., 583 P. 2d 613 (Utah 1978). The petitioner provided nothing to show he abandoned Idaho and acquired another state as his domicile.

An individual who is domiciled in Idaho is considered a resident of Idaho and is required to report his income from all sources to Idaho. Idaho Code sections 63-3013 and 63-3002.

However, if an individual who is domiciled in Idaho is absent from the state for a period of 15 consecutive months and is not present in the state for more than 60 days in any calendar year after the 15-month period, that individual shall not be considered a resident and not required to file a return with the state of Idaho.

The information available showed the petitioner had definite ties with Idaho. The petitioner did not provide anything to show he severed his ties with Idaho or met the safe harbor provision of Idaho Code section 63-3013. The burden of proof rests with the person asserting a change of domicile. Margani v. Sanders, 453 A.2d 501, 503. The petitioner provided no information to show his domicile changed.

Since the petitioner has not shown he abandoned Idaho and acquired another domicile or that he met the safe harbor provision in the Idaho Code, the Commission finds the petitioner was required to file Idaho income tax returns for taxable years 2007 through 2011. The petitioner also provided nothing to show that the returns prepared by the Bureau were in error or incorrect. He has not met his burden of proof. *See* Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984); therefore, the Commission upholds the Bureau's computation of the petitioner's Idaho income tax.

The Bureau added interest and penalty to the petitioner's Idaho income tax liability. The Commission reviewed those additions and found them appropriate and in accordance with Idaho Code sections 63-3045 and 63-3046.

THEREFORE, the Notice of Deficiency Determination dated April 29, 2015, and directed to **[Redacted]** , is hereby APPROVED and MADE FINAL.

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

YEAR	TAX	PENALTY	INTEREST	TOTAL
2007	\$410	\$103	\$152	\$665
2008	4,587	1,147	1,406	7,140
2009	1,736	434	445	2,615
2010	1,381	345	289	2,015
2011	834	209	141	<u>1,184</u>
			TOTAL DUE	<u>\$13,619</u>

Interest is calculated through October 7, 2016.

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 included with this decision.

DATED this _____ day of _____ 2016.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2016, 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.
