

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
) DOCKET NO. 2-025-017-344
[REDACTED],)
)
)
) Petitioners.) DECISION
)
_____)

On November 18, 2014, the staff of the Tax Discovery Bureau of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (petitioners), proposing income tax, penalty, and interest for taxable year 2012 in the total amount of \$4,245.

On January 5, 2015, the petitioners filed a timely appeal and petition for redetermination. The petitioners 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 petitioners may be required to file an Idaho individual income tax return for taxable year 2012. The Bureau researched the Commission’s records and found that the petitioners had not filed an Idaho income tax return for the aforementioned year. The Bureau sent the petitioners a letter asking about their requirement to file a 2012 Idaho individual income tax return. [Redacted] responded on behalf of the petitioners stating that they were not required to file a return in Idaho for 2012 because, “I lived in North Dakota and filed a North Dakota State income tax. I used my Idaho address because I had no real address in North Dakota living on rigs and moving constantly. I am now living back in Idaho. My schedule has changed and I am able to spend half the year at my [Redacted] address and am again calling Idaho my residence.”

The Bureau obtained additional information from the Internal Revenue Service, the [Redacted] County Assessor and the Idaho Department of Motor Vehicles. The Bureau determined the petitioners did have a filing requirement for taxable year 2012. The Bureau prepared a 2012 Idaho individual income tax return for the petitioners and sent them an NODD.

A timely protest of the NODD was filed by petitioners. The protest consisted of the petitioners providing a copy of their North Dakota income tax return and requesting the opportunity to fill out the Bureau's domicile questionnaire for further consideration of their requirement to file an Idaho return. The Bureau provided petitioners with the questionnaire along with the information they used to determine the petitioners' domicile. The questionnaire was not returned nor was a 2012 Idaho individual income tax return filed.

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

The Bureau had information that indicated the petitioners may need to file Idaho individual income tax return for taxable years 2012. The Bureau found that there was no record of the petitioners filing an Idaho income tax return for the previously mentioned year. The petitioners stated that while they did own property in [Redacted] Idaho, they did not live in Idaho in 2012, and therefore were not required to file an Idaho income tax return.

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 petitioners were domiciled in taxable year 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 Commission, 128 Idaho 883, 884, 920 P.2d 400, 401 (1996). The burden rests with petitioners 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 petitioners had not established any other state as their new domicile.

The Bureau found that the petitioners purchased property on [Redacted] Road in [Redacted] Idaho in September of 2010, and began claiming the homeowner’s exemption on that property. [Redacted] maintained an Idaho driver’s license from 2008 through the present. [Redacted] maintained an Idaho driver’s license from 2006 through the present. Mr. and Mrs. [Redacted] both purchased resident Idaho fish and game licenses, each in 2008 and again in 2012, with [Redacted] stating he had been a resident since 2006 and [Redacted] stating

she had been a resident since 2002. Additional research by the Bureau showed the petitioners registered vehicles in Idaho in taxable years 2011 and 2012.

The petitioners 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 petitioners own property in Idaho, but claim because Mr. [Redacted] lived and worked in North Dakota in taxable year 2012 and filed a tax return in North Dakota, that they are not required to file an Idaho return. Mr. [Redacted] was employed in North Dakota, and earned North Dakota wages, but has provided little else to identify them with the state of North Dakota.

The Bureau determined, and the Commission agrees, that based on the information contained in the file, the petitioners were domiciled in Idaho and, therefore, were required to file an Idaho individual income tax return for taxable year 2012. However, the petitioners are, according to Idaho Code § 63-3029 allowed a credit for taxes paid another state. The petitioners provided a copy of the return filed with North Dakota and the Bureau modified the original NODD,

allowing the credit and thereby reducing the amount of Idaho income tax due. The Bureau added interest and penalties to the petitioners' Idaho tax. The Commission reviewed those additions and found them appropriate and in accordance with Idaho Code §§ 63-3045 and 63-3046, respectively.

THEREFORE, the Notice of Deficiency Determination dated November 18, 2014, and directed to [Redacted] is hereby MODIFIED, and as modified, APPROVED and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2009	\$3,232	\$808	\$382	\$4,422

Interest is computed to June 1, 2016.

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

An explanation of petitioners' right to appeal this decision is enclosed 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.
