

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
[Redacted]	)	DOCKET NO. 0-187-717-632
	)	
Petitioner.	)	DECISION
_____	)	

The Idaho State Tax Commission (Commission) reviewed your case and this is our final decision. We uphold the Notice of Deficiency Determination (Notice) dated November 9, 2017. This means **you need to pay \$9,907** of tax, penalty and interest for taxable years 2009 through 2011. The Commission now DEMANDS immediate payment of this amount.

The Tax Discovery Bureau (Bureau) received information that [Redacted] (Petitioner) may have a requirement to file Idaho resident individual income tax returns for the previously mentioned years. The Bureau researched the Commission’s records and found that Petitioner had not filed Idaho income tax returns for taxable years 2009 through 2011. The Bureau sent Petitioner a letter asking about his requirement to file Idaho resident individual income tax returns. Petitioner did not respond to the Bureau’s inquiry.

Based on information in Commission records the Bureau decided Petitioner had a requirement to file Idaho resident income tax returns for taxable years 2009 through 2011. The Bureau prepared resident individual income tax returns for Petitioner and sent him a Notice.

In response to the Notice Petitioner sent a prompt protest disagreeing with the Bureau’s determination. In his appeal letter Petitioner requested more time to gather information to accurately file the missing returns and prove that he lived in Nevada during some of the years shown in the Notice.

The Bureau sent Petitioner a letter acknowledging his protest and allowing him more time to send the missing returns or provide documentation to substantiate his Nevada residency. When Petitioner did not send the missing returns or provide any other information, the Bureau referred the matter for administrative review.

The Commission sent Petitioner a letter discussing the methods available for redetermining the Notice. Petitioner did not respond, nor has he filed the missing returns. The Commission reviewed all information and now decides this matter.

Based on Petitioner's past filing history, it appears he established his Idaho domicile as early as taxable year 1999, filing a resident income tax return that year. Petitioner consistently filed Idaho resident income tax returns through taxable year 2008.

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." See *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). In the present case, the burden rests with Petitioner to prove that he abandoned his domicile in Idaho and established a domicile in another state; until that burden is met, Idaho continues to be his domicile.

The Commission relied upon many factors in the determination that Petitioner's 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 decide that Petitioner had not established any other state as his new domicile. These factors are as follows:

- Idaho Department of Labor records show Petitioner worked in Idaho all four quarters of taxable years 2009 and 2010
- Petitioner bought Idaho resident Fish and Game licenses consistently between 2009 and 2011
- Petitioner registered vehicles in Idaho in 2010 and 2011

Individuals often 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 the present case, Petitioner said that for some of years in question he did not live in Idaho but instead lived in Nevada.

Information available to the Commission does show Petitioner worked in Nevada in taxable year 2011. However, other than wages, there is little to identify him with the state of Nevada. Petitioner has not provided sufficient documentation to show he acquired Nevada as his new domicile. Therefore, Petitioner is an Idaho resident according to Idaho Code § 63-3013.

In Idaho, it is well established that a Commission Notice is presumed to be correct, and the taxpayer bears the burden of showing the deficiency is erroneous. *See Parsons v. Idaho State Tax Commission*, 110 Idaho 572, 574-575 n.2, 716 P.2d 1344, 1346-1347 n.2 (Ct. App. 1986); *Albertson's, Inc. v. State, Dept. of Revenue*, 106 Idaho 810, 814, 683 P.2d 846, 850 (1984). Petitioner has not met his burden. Therefore, the Commission upholds the Bureau's calculation of Petitioner's Idaho income tax liability for taxable years 2009 through 2011.

The Bureau found Idaho withholding of \$1,176 and \$912, respectively for taxable years 2009 and 2010, and reduced the Petitioner's Idaho income tax due by that amount. The Bureau added interest and penalty to Petitioner's tax deficiency. The Commission reviewed those additions and found them proper following Idaho Code §§ 63-3045 and 63-3046, respectively.

The Notice dated November 9, 2017, and directed to [Redacted] is hereby APPROVED and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2009	\$740	\$185	\$255	\$1,180
2010	979	245	291	1,515
2011	4,785	1,196	1,231	<u>7,212</u>
			TOTAL DUE	<u>\$9,907</u>

Interest is computed to March 7, 2019.

An explanation of the Petitioner's right to appeal this decision is enclosed.

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2018.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2018,  
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.

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