

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
[Redacted])	DOCKET NO. 1-130-557-440
)	
Petitioner.)	DECISION
_____)	

The Idaho State Tax Commission (Commission) reviewed your case and this is our final decision. We modify the Notice of Deficiency Determination (Notice) dated April 6, 2017. This means **you need to pay \$2,598** of tax, penalty, and interest for taxable years 2011 through 2014. 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 2011 through 2014. 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 determined Petitioner had a requirement to file Idaho resident income tax returns for taxable years 2011 through 2014. The Bureau prepared resident individual income tax returns for Petitioner and sent him a Notice.

In response to the Notice Petitioner submitted a timely protest disagreeing with the Bureau’s determination. Petitioner stated in his appeal letter that he worked only in Utah during those years and he was not going to pay taxes to a state that he did not work in.

The Bureau sent Petitioner a letter acknowledging his protest and requesting he complete a residency and domicile questionnaire to help determine his residency status. Petitioner completed parts of the questionnaire, providing the following information:

- He acquired a commercial driver's license in Idaho
- The name of his Utah based employer
- He had a filing requirement in Utah and filed income tax returns in Utah

Petitioner also made the statement, "I had a home in Idaho but was working in Utah." The Bureau reviewed the responses and conducted additional research, including requesting copies of Petitioner's returns from the state of Utah. The Bureau modified the Notice to allow a credit for taxes paid to another state and sent a copy to Petitioner. Petitioner continued his objection to the Notice. Therefore, 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.

Petitioner's past filing history with the State of Idaho is somewhat sporadic. Between the taxable years 2006 through 2016 Petitioner filed; part-year resident returns in 2006 and 2010; resident returns in 2007 through 2009, 2015 and 2016; and no Idaho returns in taxable years in 2011 through 2014. However, Petitioner did consistently file federal returns for the period 2006 through 2016, all showing an Idaho address. While a bit erratic, Petitioner's filing history indicates an Idaho domicile as early as 2006.

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 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 numerous 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 determine that Petitioner had not established any other state as his new domicile. These factors are as follows:

- Petitioner claimed the Idaho homeowner's exemption beginning in 2013
- Petitioner renewed his resident Idaho driver's license in 2012
- Petitioner registered vehicles in Idaho in 2011, 2012 and 2014
- Petitioner purchased resident Idaho Fish and Game licenses in 2011 and 2014, both times reporting Idaho residency since 1980

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 the present case, other than wages, there is little to identify Petitioner with the state of Utah. He has not provided sufficient documentation to show he has acquired Utah as his new domicile. Petitioner is an Idaho resident according to Idaho Code § 63-3013 and as such, is required to file an Idaho income tax return, Idaho Code § 63-3030(a)(1).

However, Petitioner did work in Utah and did file returns there. Idaho Code § 63-3029 provides for a credit for income tax paid to another state or territory. Petitioner did not provide copies of the returns he filed in Utah, but as mentioned previously, the Bureau, through an exchange agreement between the two states, requested the Utah returns. The Notice was modified by the Bureau to allow Petitioner a credit for taxes paid to Utah. For taxable year 2011, due to an IRS adjustment, the Notice was also modified to reflect a change in filing status, from Head of Household to Single.

In Idaho, it is well established that a Commission Notice is presumed to be correct, and the taxpayers bear the burden of showing the deficiency is erroneous. *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 2011 through 2014 after modification.

The Bureau added interest and penalty to Petitioner's tax deficiency. The Commission reviewed those additions and found them appropriate and in accordance with Idaho Code §§ 63-3045 and 63-3046, respectively.

The Notice dated April 6, 2017, and directed to [Redacted] is hereby MODIFIED, and as modified, 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>
2011	\$925	\$231	\$223	\$1,379
2012	652	163	133	948
2013	132	33	23	188
2014	60	15	8	83
			TOTAL DUE	<u>\$2,598</u>

Interest is computed to October 26, 2018.

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.
