



To help determine Petitioner's residency, the Bureau sent him a domicile questionnaire. Petitioner responded with a completed questionnaire. The Bureau reviewed all the information Petitioner provided as well as other information available to the Tax Commission and determined he never abandoned Idaho as his state of domicile.

The Bureau acknowledged Petitioner's protest and referred the matter to the Tax Commission's Appeals Unit (Appeals). Appeals sent Petitioner a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination.

Petitioner contacted Appeals asking what additional information he needed to provide to show he was not a resident of Idaho. Appeals sent Petitioner an email and provided him with some examples of things that identify an individual with a particular state. Examples such as: showing an individual's intent by obtaining driver's licenses in the state, registering to vote in the state, buying resident fish and game licenses, banking in the state, having medical doctors/dentists in the state, acquiring property in the state, registering vehicles (personal and recreational) in the state, attending social functions in the state, contributing to and being a part of the community where one lives, and any other activity, licenses, or privileges received that identifies the individual as someone belonging to the state. Petitioner did not respond or provide additional information.

Seeing that Petitioner had an opportunity to provide whatever other documentation he wanted the Tax Commission to consider, the Tax Commission now issues its decision based on the information available.

## **LAW AND ANALYSIS**

Idaho Code section 63-3002 states the legislative intent of the Idaho income tax act; to impose a tax on residents of this state measured on their income from all sources wherever derived. Idaho Code section 63-3013 defines a resident to include an individual that is domiciled in Idaho.

Domicile is defined in IDAPA 35.01.01.030 Idaho Administrative Income Tax Rules 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 intent 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 the old domicile, intent to acquire a specific new domicile, and the actual physical presence in the new domicile. *Pratt v. State Tax Commission*, 128 Idaho 883, 885 n.2, 920 P.2d 400, 402 n.2 (1996). Domicile, once established, persists until a new domicile is legally acquired. *In re Cooke's Estate*, 96 Idaho 48, 524 P.2d 176 (1973). The burden of proof is always on the person asserting the change to show that a new domicile was, in fact, created. *Texas v. State of Florida*, 306 U.S. 398, 59 S.Ct. 563, 577 (1939). The question of whether a domicile has been changed is one of fact rather than of law. *In re: Newcomb v. Dixon*, 192 N.Y. 238 (1908).

The Bureau determined, based on information gathered, that Petitioner's domicile remained with Idaho for tax years 2016 and 2017. Petitioner filed Idaho resident income tax returns for 2007, 2008, 2009, 2011 and 2014, clearly establishing Idaho as his domicile. Secondary factors included, Petitioner obtained an Idaho driver's license in 2006, renewing in 2009, 2012, and 2017<sup>2</sup>. Petitioner purchased a resident Idaho fish and game license in October 2020, indicating he was a resident since 1999. Petitioner used an Idaho address on his important tax documents during both 2016 and 2017. Therefore, Petitioner has the burden of showing he abandoned his Idaho domicile and acquired Oregon, Nevada, or any other state as his new domicile.

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<sup>2</sup> Idaho Code section 49-303(13) provides that a person who is not a resident of the state of Idaho does not qualify for an Idaho driver's license.

Generally, the Tax Commission reviews all the factors that identify an individual with a particular state. However, in this case there is very limited information on what Petitioner did to become domiciled in another state. Petitioner did not show he had permanent living quarters in either Oregon or Nevada or that he acquired a driver's license, or registered vehicles in another state.

A change of domicile requires that an individual abandon his domicile and acquire another. While it may be true that Petitioner lived in Oregon and Nevada for most of each of the years in question, Petitioner provided no evidence that he abandoned Idaho and acquired either Oregon or Nevada as his domicile. All the information shows that Petitioner was only in the other states for employment or work opportunities.

The Tax Commission finds Petitioner did not have the requisite intent to abandon Idaho, nor did he intend to acquire Oregon or Nevada as his state of domicile. There is nothing in the record that shows Petitioner did anything to identify himself with Oregon or Nevada. Petitioner has not shown that he had the sentiment, feeling, or permanent association that goes with calling a place a home while he was in Oregon or Nevada. (*Starer v. Gallman*, 50 A.D.2d 28, 377 N.Y.S.2d 645 (1975)).

Therefore, the Tax Commission finds Petitioner's domicile was Idaho for the years in question.

## **CONCLUSION**

Domicile is primarily determined by an individual's intent which is shown by his actions. There must be intent to abandon an existing domicile, intent to acquire a new domicile, and physical presence in the new domicile. From the information available, it is clear Petitioner was in

other states, but only for employment purposes. Petitioner did not take the necessary steps to change his domicile.

In domicile cases, the burden is on the party asserting the change to show a change of domicile occurred. *Texas v. State of Florida*, supra. Petitioner did not provide any documentation or other information to show he did the things necessary to identify himself with another state. Therefore, the Tax Commission upholds the Bureau's determination that Petitioner was an Idaho resident for the years in question. However, during the administrative review, Appeals discovered \$11,953 of income earned by Petitioner in 2015 was included in the Bureau's calculation of his 2016 taxable income. Consequently, the Tax Commission modifies the Notice removing this income.

THEREFORE, the Tax Commission AFFIRMS as MODIFIED the Notice of Deficiency Determination dated July 30, 2024, directed to [REDACTED] [REDACTED] [REDACTED]

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>
2016	\$1,555	\$389	\$536	\$2,480
2017	612	153	191	956
			TOTAL DUE	\$3,436

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

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

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2025.

IDAHO STATE TAX COMMISSION

## CERTIFICATE OF SERVICE

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2025,  
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:



Receipt No.

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