

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 0-332-538-880
	)	
Petitioners.	)	DECISION
<hr style="width: 50%; margin-left: 0;"/>	)	

(Petitioners) protested the Notice of Deficiency Determination dated April 20, 2023. Petitioners disagreed that \_\_\_\_\_ was domiciled in Idaho in 2019 and thus required to report his community income to Idaho. The Tax Commission, having reviewed the matter, and for the reasons discussed below, finds the Notice of Deficiency Determination should be cancelled.

**BACKGROUND**

Petitioners filed their Idaho individual income tax return for tax year 2019 showing \_\_\_\_\_ as a resident of Washington and \_\_\_\_\_ as a resident of Idaho. The succeeding and preceding tax years, Petitioners were both reported as Idaho residents. The Income Tax Audit Bureau (Bureau) found the discrepancy among Petitioners’ returns and decided Petitioners’ 2019 return should be reviewed. The Bureau sent Petitioners a letter stating it was reviewing their 2019 return and asked them to complete a residency/domicile questionnaire. Petitioners completed and returned the questionnaire along with an explanatory narrative. The Bureau reviewed Petitioners’ responses and determined \_\_\_\_\_ was domiciled in Idaho in 2019, and therefore, required to report all his income to Idaho. The Bureau corrected Petitioners’ 2019 Idaho income tax return and sent them a Notice of Deficiency Determination.

Petitioners protested disagreeing that \_\_\_\_\_ domicile was Idaho in 2019. Petitioners stated that \_\_\_\_\_ had an employment opportunity that required him to leave the business he

helped to create in Boise and move to Seattle. Petitioners stated the job had a lot of promise and upside potential. While unfortunately the job did not work out, when [redacted] left Idaho it was with the plan and intent to make Seattle Petitioners' new home as they had done many times before prior to moving to Idaho.

Petitioners addressed each of the factors identified in the Bureau's determination stating that much of this is resolved by understanding that [redacted] and their children remained in Boise until [redacted] was established in Seattle and he was well into the job. However, several months into the job it was questionable whether the operation would continue. When it became apparent that the Seattle job would be shutting down, Petitioners stated [redacted] remained in Seattle until his position was terminated on December 31, 2019. [redacted] then returned to Idaho and started another business in Boise. Petitioners stated [redacted] separation from his Boise business and his new job in Seattle did not make Seattle simply a residence, but it was his domicile and his home.

The Bureau acknowledged Petitioners' protest and referred the matter to the Tax Commission's Appeals Unit (Appeals). Appeals reviewed the case and sent Petitioners a letter that discussed the methods available for redetermining a Notice of Deficiency Determination. Petitioners requested an informal hearing which was held on January 9, 2024. In attendance at the hearing were [redacted] CPA, Commissioner [redacted] and [redacted] Tax Appeals Specialist.

During the hearing Mr. [redacted] (Petitioner) provided the following additional information. Petitioner's employment background prior to moving to Idaho was a campaign manager. Petitioner stated he managed political campaigns for members of Congress and the United States Senate. Petitioner stated for the first 10 years of his marriage he and his wife lived in five different states. Petitioner stated he would go to a particular state to begin a campaign and

a few months later his wife would join him. This was their normal pattern until Petitioners decided to move to Idaho where Petitioner started a polling and strategic advising business in Boise.

Petitioner and his partner built up the business and were successful for several years. In 2017, Petitioner was approached by one of their clients who decided to run for

The individual asked Petitioner to run his campaign. Petitioner stated he made several trips to Seattle in 2017 and 2018 before he and his wife decided that it would be an opportunity for him to help move the country in a better direction. Petitioners also believed that working with the candidate would open doors for Petitioner in government and/or the private sector depending on the outcome of the election.

At the time, Petitioners had a nanny working for them to help with their 4-year-old and 2-month-old. Petitioners asked their nanny to move to Seattle with them and thought she was going to, but she later declined their offer. Petitioners then decided that Petitioner would take the job, move to Seattle himself, get the campaign started, and then once established move the family to Seattle in the summer of 2019.

Petitioner initially rented a 2-bedroom, 2-bathroom apartment in downtown Seattle. Petitioner began acquiring things for the apartment to make it suitable for when his wife and children came to Seattle during the transition period. Petitioners looked into schools for their 4-year-old and enrolled him in a Washington kindergarten on January 31, 2019, to begin in the fall of 2019. Petitioners also looked into houses in the Seattle area and put a non-refundable lease deposit on a 5-bedroom house. In March 2019, Petitioner purchased and registered a vehicle in Seattle.

In June 2019 prior to Petitioner's family moving to Seattle, the candidate

. At that time,

Petitioners decided to postpone moving the family to Washington.

the candidate decided to stop his campaign and Petitioner was tasked with shutting it down and laying people off. On December 31, 2019, Petitioner's contract was terminated, and he returned to Idaho reuniting with his family. Petitioner stated that when he took the job, he only considered two possible outcomes; 1) the candidate would run and win, or 2) the candidate would run and lose. Petitioner never considered the possibility that the candidate would

Petitioner's contract to manage the campaign was a two-year contract beginning on January 1, 2019. Petitioner was required to relocate to Seattle and sever his ties with his firm in Idaho. The Idaho firm was a major vendor for the campaign. In addition to being hired as a payroll employee, Petitioner was hired as a consultant. Petitioner created \_\_\_\_\_ as his consulting firm whose sole client was the campaign. All \_\_\_\_\_ income was generated from the campaign in Washington.

Petitioner stated that after his contract was over, if the candidate was elected there were a lot of possibilities and he thought he would have a role in governing \_\_\_\_\_ Petitioner stated that in previous campaigns that were successful, he became the Chief of Staff for \_\_\_\_\_.

Even if his candidate lost, Petitioner believed he would have stayed in Seattle because he could not go back to what he was doing since he ran a campaign against \_\_\_\_\_.

Petitioner believed he could easily find employment in Seattle considering the contacts he made with top executives.

During 2019, Petitioner's wife and children would visit him in Seattle at least two times a month. Petitioner would also visit his family in Idaho one to two times a month. Petitioner stated they would also meet up at other locations whenever they could.

Petitioner stated he was an obsessive golfer. Petitioner stated he typically plays 100 rounds of golf per year. In 2019, Petitioner stated he only played about 20 rounds because of the time commitment of the campaign. Petitioner looked into joining two country clubs but one had a \$125,000 initiation fee and the other had a waiting list that he was not interested in waiting on. Petitioner ended up playing most of his golf at the Chambers Bay club south of Seattle.

In addition to golf, Petitioner stated he enjoys running and working out. He joined the gym in the office building where the campaign office was and paid for that himself. He also joined the aquarium and the Woodland Park Zoo with family memberships. Petitioner stated he did not purchase season tickets for any of the sports teams in Seattle, which he was not in the habit of doing, but he did attend several of the Seahawks and Mariners games with others who had season tickets.

Petitioners believe that based on all the facts and circumstances regarding Mr. [redacted] move to Seattle, Washington, they prepared their 2019 Idaho individual income tax correctly, reporting only Mrs. [redacted] share of their community income to Idaho.

### **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 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). 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, persists until a new domicile is legally acquired. *In re Cooke's Estate*, 96 Idaho 48, 524 P.2d 176 (1973). 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). It takes no particular period of time to acquire a new domicile, the result being achieved when the person is physically present in the new place with a state of mind regarding the new place as home. *Taylor v. Milan*, 89 F.Supp. 880 (1950). 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 gathered information from Petitioners and third-party sources to determine Petitioner's domiciled. The information included Petitioner having an Idaho driver's license, a home in Idaho, a business operating in Idaho, a spouse in Idaho, near and dear possessions in Idaho, information reported on an, after the audit period, Idaho fish and game license, vehicles titled and registered in Idaho, the homeowner's exemption on their house in Idaho, and an Idaho mailing address. The Bureau found that all these items in addition to filing Idaho resident income tax returns for the years prior to and after 2019 point to Petitioner's domicile being Idaho.

Petitioners argued domicile changed to Washington as it changed many times in the past prior to their move to Idaho. Petitioners stated each time managed a campaign for a candidate of a different state, they left the state they were in and moved to the new state.

Petitioners stated this campaign was no different other than with this campaign they had young children to consider.

It is clear from the information available Petitioner's domicile prior to and after 2019 was Idaho. So, the question becomes what Petitioner's intent was when he left Idaho in 2019. Generally, the Tax Commission reviews all the factors that identify an individual with a particular state. In reviewing the five primary factors, the Tax Commission found the majority in Petitioner's favor. Petitioners did have a home in Idaho with the Idaho homeowner's exemption. However, Petitioner created or was in the process of creating a home in Seattle for himself and his family. Initially home was an apartment in downtown Seattle, but it was to become a 5,500 sq. ft. house in the greater Seattle metropolitan area. Petitioner stated they were about a month and a half away from moving and the children when the candidate injured himself. Petitioners had a real estate agent ready to sell their house in Boise, but the house was not listed because their plan was, as they had done with all of their previous homes, to move first and then list the house for sale.

had some boxes packed for the move and had bought some moving supplies, but that was as far as they got before they had to reevaluate their situation.

Factors outside Petitioners' control disrupted the plan and had they not happened, Petitioners were well on their way to making it a reality. The fact that Petitioners received the homeowner's exemption on their Idaho house has little bearing, since the Idaho house was primary residence on January 1, 2019. The Tax Commission finds this factor showing Petitioner's intent to acquire and his physical presence in Washington.

Petitioner's active business involvement in 2019 was clearly in Washington. The Bureau does not question Petitioner's employment in Seattle. Where the Bureau finds issue with this factor is Petitioner reported an Idaho schedule C business that netted in excess of \$1.4 million dollars. In

determining this factor, the Bureau did not have all the facts. In 2018, when Petitioner decided to accept the job in Seattle, he was a member of \_\_\_\_\_ located in Boise. His employment contract required him to sever his ties with \_\_\_\_\_ which he did. The schedule C business reported on Petitioners' 2019 return is for Petitioner's consulting business,

This consulting business was allowed by Petitioner's employment contract and was used as a mechanism to increase Petitioner's income due to required salary caps.

\_\_\_\_\_ only client was the campaign, and its only income was generated in Washington. As a result, virtually all Petitioners' income in 2019 was from sources in Washington. Consequently, this factor favors a change in domicile.

The time factor is clearly in Petitioner's favor. Petitioner spent most of his time outside of Idaho. Petitioner's contract required him to move to Washington and the time he spent in Idaho was limited to visiting his family one to two times a month.

Petitioner's near and dear items were with him in Washington. Petitioner is an avid golfer and enjoys running and working out. Petitioner stated he took all his personal belongings to Seattle, which included his golf clubs, sports equipment, and clothes. Petitioner later purchased a vehicle in Washington and registered it in Washington. So, other than his wife and children, Petitioner had all the things that made life enjoyable with him in Washington. This factor shows the intent to acquire, the intent to abandon, and physical presence in Washington.

The last of the five primary factors is Petitioner's family connections. While Petitioner's family never made the move to Seattle, Petitioners were preparing for them to move. Petitioner stated he would not have taken the job if his wife was against it. Petitioner stated his firm in Idaho was doing very well at the time and there was no need for him to take on another campaign. Petitioner stated both he and his wife saw problems with the country, and they believed the



candidate could change things if elected. Petitioner had no other family connections in the Pacific Northwest, but after he took the job, he convinced close friends to quit their jobs and move to Seattle to join him in the campaign. Considering the willingness of Petitioner's family to uproot and relocate, shows an intent to abandon and the intent to acquire a different domicile.

Of the secondary factors identified by the Bureau, the Idaho driver's license is the one pointing to an Idaho domicile. Petitioner maintained his Idaho driver's license throughout 2019. Petitioner stated he did not get a Washington driver's license upon his arrival in Washington because he did not want to have to change it again when they moved into more permanent housing. However, that did not happen because of the candidate's injury and the campaign ending.

Petitioner purchased and registered a vehicle in Washington and Petitioner had other vehicles titled and registered in Idaho. However, the vehicles titled and registered in Idaho were in years other than 2019 when Petitioner was a resident of Idaho.

Petitioner did purchase Idaho fish and game licenses, but again these were in years other than 2019. The Bureau cites the requirement that an individual must reside in Idaho for six months before getting a resident license. However, because Petitioner had an Idaho driver's license it is likely the vendor did not question the fact that Petitioner had not lived in Idaho for six months prior to when the license was purchased in April 2020.

Petitioner also used an Idaho mailing address on his tax documents for 2019. At the time Petitioners filed their 2019 return, Petitioner was back in Idaho, and it is likely that Petitioner had his Washington employer mail his W-2 Wage and Tax Statement to the Idaho address upon his termination, knowing that is where he would be.

IDAPA Rule 35.01.01.030.02.a states that a concurrence of three factors must occur to change an individual's domicile; the intent to abandon the present domicile, the intent to acquire

a new domicile, and physical presence in the new domicile. See also *Pratt v. State Tax Commission*, supra. It is the Tax Commission's opinion Petitioner's statements and actions show an intent to abandon Idaho. He left Idaho knowing that his involvement with

win or lose, was political suicide and he would not be able to return to his previous line of work in Idaho. Knowing this, Petitioner left Idaho and began establishing himself in Washinton as he had done with many campaigns before; the intent to acquire. As for the third prong, there is no question Petitioner was physically present in Washington, his new domicile. Petitioners had made some and were making the other preparations to show that Seattle would have the sentiment, feeling, or permanent association that goes with calling a place a home. (*Starer v. Gallman*, 50 A.D.2d 28, 377 N.Y.S.2d 645 (1975)). Therefore, based on the information presented, the Tax Commission finds Petitioner abandoned Idaho and acquired Washington as his domicile in 2019.

### **CONCLUSION**

Idaho Income Tax Administrative Rule IDAPA 35.01.01.030.02.a states, for a domicile to change there must be a concurrence of specific events. The taxpayer must have the intent to abandon his domicile, the intent to acquire a new domicile, and physical presence in the new domicile. Petitioner's domicile prior to 2019 was Idaho. Petitioner has the burden of showing his domicile changed.

Based on the information provided, the Tax Commission found that Petitioner did abandon Idaho and acquire Washington as his domicile in 2019. Furthermore, the Tax Commission finds Petitioners' 2019 Idaho income tax return an accurate representation of the community property split of income for Petitioners.

THEREFORE, the Tax Commission CANCELS the Notice of Deficiency Determination dated April 20, 2023, directed to

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

DATED this 10<sup>th</sup> day of April 2024.

IDAHO STATE TAX COMMISSION

**CERTIFICATE OF SERVICE**

I hereby certify that on this 10<sup>th</sup> day of April 2024,  
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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