

In the Matter of the Protest of

Petitioner.

DECISION

language in the judge's order made no reference to the residency status of Mr. [REDACTED]

The Bureau also requested Petitioners complete a domicile questionnaire to gather additional information related to their residency. Petitioners did not complete the questionnaire but did provide information to show a new residence in Washington state in 2021. The Bureau determined Petitioners changed their domicile to Washington in 2021, therefore they modified the Notice, removing tax years 2021 and 2022 and these years will not be mentioned further in this decision. Petitioners continued their protest; therefore, the Bureau referred the matter to the Tax Commission's Appeals Unit (Appeals) for administrative review.

Appeals reviewed Petitioners' case and sent them a letter giving them the options available for redetermining the Notice. Petitioners responded via email, providing a partially completed domicile questionnaire and additional information, but did not request an informal hearing or submit Idaho income tax returns. The Tax Commission 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 from the information gathered that Petitioners were domiciled in Idaho. This information includes Mr. [REDACTED] having an Idaho driver's license beginning in 2012, renewed in 2016 and renewed again in 2020. Mr. [REDACTED] purchasing Idaho resident fish and game licenses in 2017 through 2022. Mrs. [REDACTED] acquiring an Idaho driver's license in 2014 (8-year license) and renewed in 2022. Mrs. [REDACTED] also purchased an Idaho resident fish and game license in 2017. Petitioners titled a boat in Idaho in 2017, registered two vehicles and two recreational vehicles in Idaho in 2018 and another recreational vehicle in Idaho in 2020. Mr. [REDACTED] used Idaho addresses for his W-2 wage and tax statements for tax years 2016 through 2020. Mrs. [REDACTED] used an Idaho address for her W-2 wage and tax statement for tax year 2018.

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 a resident or domiciled in Washington prior to 2021. The only evidence Petitioners provided to show they intended to become residents of Washington was living in an RV park and working in Washington. Petitioners provided little to nothing to show that they abandoned Idaho and acquired Washington as their domicile. Furthermore, when questioned on when they intended to acquire Washington as their new domicile, Petitioners stated "Actually never intended to make Washington our residency sole purpose was [REDACTED] in construction and you go where the work is

and it happen to be Washington since June 2017 and went home to Idaho when we could maybe 6x out of the year.” (sic)

A change of domicile requires that an individual abandon his domicile and acquire another. While it is true Petitioners lived in Washington in each of the years in question, there is nothing to indicate they abandoned Idaho and acquired Washington as their state of domicile. Not until 2021 when Petitioners acquired a permanent residence in Washington did they change their domicile to Washington. Petitioners have not shown that they had the sentiment, feeling, or permanent association that goes with calling a place a home while they were in Washington during the audit period. (*Starer v. Gallman*, 50 A.D.2d 28, 377 N.Y.S.2d 645 (1975)).

CONCLUSION

Domicile is the constitutional basis for state taxation. Domicile is primarily determined by an individual’s intent which is shown by their actions. Petitioners’ actions showed that they held themselves out to be Idaho residents. Therefore, because Petitioners’ income exceeded Idaho’s filing threshold, they were required to file Idaho income tax returns.

The Tax Commission reviewed the returns the Bureau prepared for Petitioners and found those returns a reasonable representation of Petitioners’ Idaho taxable income. Therefore, the Tax Commission upholds the Bureau’s determination of Petitioners’ Idaho taxable income.

The Bureau added interest and penalty to Petitioners’ Idaho tax liability. The Tax Commission reviewed those additions and found them appropriate and in accordance with Idaho Code sections 63-3045 and 63-3046, respectively.

THEREFORE, the Notice of Deficiency Determination dated June 19, 2024, directed to

■■■■■■■■■■ as modified by the Bureau, is AFFIRMED and made FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2017	\$8,771	\$2,193	\$2,738	\$13,702
2018	7,133	1,783	1,921	10,837
2019	11,191	2,798	2,485	16,474
2020	14,379	3,595	2,701	<u>20,675</u>
			TOTAL DUE	<u>\$61,688</u>

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

An explanation of Petitioners' 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.
