



to an informal hearing. Petitioner responded and updated her contact information. She indicated that she would like to participate in an informal hearing but wanted to speak to her representative first. After numerous attempts to contact Petitioner, she did not respond to Appeals again or provide any additional documentation.

### **LAW AND ANALYSIS**

Idaho Code section 63-3013(a) provides that any individual who is domiciled in Idaho is an Idaho resident. Domicile means the place where an individual has his true, fixed, permanent home - the place he intends to return to whenever he is absent. Once domicile is established in a particular place, it remains there until the individual (1) intends to acquire a specific new domicile, (2) intends to abandon the old domicile, and (3) has physical presence in the place of new domicile. All individuals who have been domiciled in Idaho for the entire taxable year are residents for Idaho income tax purposes even though they may have resided outside Idaho for all or part of the taxable year except as provided in Idaho Code section 63-3013(2).

Idaho determines the residency of a taxpayer based on several primary and secondary factors. The primary factors include their home, time, near and dear items, business activity, and family connections. Secondary factors include driver's licenses, where they register to vote, Fish and Game licenses, vehicle registration, etc. No one factor determines domicile, rather a combination of factors with consideration of all facts and circumstances determines domicile. Idaho Income Tax Administrative Rule 030.020 states, "An individual can have several residences or dwelling places but can have only one domicile at a time." Analysis of the primary and secondary factors related to Petitioner to determine her residency status during 2015 through 2019 follow:

## Home

Petitioner purchased a home in \_\_\_\_\_ Idaho, in May of 2010. She then applied for the Homeowner's Exemption with the Bannock County assessor shortly after for the tax year 2011. She has received the Homeowner's Exemption every year, including the audit years in question. By signing this document, Petitioner certified under penalty of perjury that she was an Idaho resident and used the home as her primary dwelling place.

In her questionnaire response, Petitioner stated that even though she did own Idaho property, she worked out of state. Additionally, she stated that she stayed with family when she visited Idaho during the years in question. Petitioner did not provide a list of dates or timeline for those visits. Petitioner stated in a phone call with Appeals that when she was not in Idaho, she rented the Idaho property to her sister. No rental agreement or dollar amount for rents received were provided.

While working out of state, Petitioner lived in multiple residences during the audit period. During 2015 through 2017, she lived in employer-sponsored housing in \_\_\_\_\_ Wyoming. For the years 2017 through 2018, she stated she attended \_\_\_\_\_ as a student in Utah. No transcript or rental agreement was provided for those years. Lastly, for the years 2019 through 2020, a rental agreement was provided for residing in a property located in \_\_\_\_\_ Utah. In a phone conversation with Appeals, Petitioner stated that she is currently living in Utah. Petitioner continued receiving the Homeowner's Exemption on her property in Idaho, during the audit period. Simply working out of state does not imply an intent to abandon her Idaho domicile. Based on the information available, this factor indicates Petitioner was a resident of Idaho during the audit period.

### **Active Business Involvement**

Petitioner worked for several employers during the years in question. For all the years in question, she did not work for an employer based in Idaho. According to information available, she also was not part of any business entity based in Idaho. Petitioner did receive per capita distributions from \_\_\_\_\_ but residency of Idaho is not a requirement for tribal distributions. Based on the information available, this factor indicates Petitioner was not a resident of Idaho during the audit period.

### **Time**

The Bureau requested a timeline for Petitioner's days in Idaho during the audit period. Petitioner did not provide that timeline. She mentioned that she visited Idaho to see family during the holidays, but no specific number of days were provided. Without proper documentation to substantiate time spent inside and outside of Idaho, this factor has been determined as inconclusive.

### **Near and Dear Items**

In the questionnaire, Petitioner stated that she kept her near and dear items in the employer sponsored housing in \_\_\_\_\_ Wyoming. She did not indicate where those items moved to when she left the employer-sponsored housing, but it is assumed that the items were moved to Utah with her. However, it is possible that Petitioner kept some near and dear items at her home in \_\_\_\_\_ Idaho, since she rented the property to her sister while she was away. While this is possible, no evidence has been shown to substantiate this assumption. She did not register any recreational vehicles in Idaho and only kept one personal car at a time. It is assumed her personal vehicle moved with her as a means of transportation. With the information available, this factor indicates Petitioner was not a resident of Idaho during the audit period.

### **Family Connections**

Petitioner was not married nor supported any dependents during the audit period. She did, however, have family in Idaho that she would visit on holidays, and her sister was renting her home in Idaho. With significant family ties to Idaho, this factor indicates Petitioner as a resident during the audit period.

### **Secondary Factors**

Idaho Driver's License – Petitioner continued to use her Idaho driver's license from 2013 until she surrendered it to Utah in December of 2021. She never obtained a Wyoming driver's license when she temporarily lived there.

Vehicle Registration – Petitioner registered a Toyota RAV 4 in 2015, a Toyota RAV 5 in 2018, and a Toyota RAV 4 in 2021 all in Idaho.

Bank Account – Petitioner used an Idaho Central Credit Union bank account on her tax returns during the audit period.

## **CONCLUSION**

Based on all the information presented to Appeals, we have determined Petitioner was a resident of Idaho during the years of 2015 through 2019. While some of the evidence is not conclusive, we believe the cumulation of primary and secondary factors favor an Idaho domicile. Petitioner obtained and maintained a Homeowner's Exemption on Idaho property, continued to register vehicles in Idaho, continued to use an Idaho bank account, did not surrender her Idaho driver's license until 2021, did not substantiate the amount of time spent outside of Idaho, and maintained substantial Idaho family connections.

Petitioner did not make reasonable effort to abandon her Idaho domicile and establish a new one. As an Idaho resident, she is required to report all income, regardless of source, to Idaho.

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

THEREFORE, the Notice dated November 2, 2021, and directed to \_\_\_\_\_ is hereby APPROVED and MADE FINAL.

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>
2015	\$1,673	\$418	\$421	\$2,512
2016	1,684	421	361	2,466
2017	1,270	318	231	1,819
2018	1,805	451	250	2,506
2019	1,885	471	160	2,516
			TOTAL	<u>\$11,819</u>

Interest is calculated through April 4, 2023.

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 \_\_\_\_\_ 2023.

IDAHO STATE TAX COMMISSION

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2023,  
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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