

Petitioners provided copies of their other states' income tax returns for 2018 and 2019. Other than Petitioners' 2019 Colorado return, all the other states' returns were filed as nonresidents. For 2019, Petitioners filed a resident Colorado return, however, on their 2019 Idaho return they reported _____ as an Idaho resident and _____ as a resident of Texas.

The Bureau reviewed all the information Petitioners provided as well as other information available to the Tax Commission and determined _____ never abandoned Idaho as his state of domicile. The Bureau adjusted Petitioners' 2018 and 2019 returns changing _____ status to a resident. With the change to _____ status, Petitioners were entitled to credit for taxes paid to the other states. The Bureau computed the credit and allowed it for both 2018 and 2019.

After making the determination for tax years 2018 and 2019, the Bureau looked at Petitioners' two surrounding years' returns, 2017 and 2020. The Bureau found Petitioners reported their residency statuses the same as they did for 2018 and 2019. Considering what it takes to change a domicile and the information provided and obtained for 2018 and 2019, the Bureau decided _____ domicile was most likely in Idaho for 2017 and 2020, too. Therefore, based on its determination of _____ domicile, the Bureau adjusted Petitioners' returns for tax years 2017 through 2020 and sent them a Notice of Deficiency Determination.

Petitioners protested the Bureau's determination. Petitioners stated the Tax Commission accepted _____ residency status in the previous years, so they were puzzled by the change. Petitioners also questioned how the Bureau could include 2017 and 2020 when all the information requested and provided pertained to 2018 and 2019. Petitioners wondered how the Bureau made that determination.

Petitioners stated the reason they did not have a home in the other states is because employer paid for housing in Texas. Petitioners stated Mathis, TX was _____ base of operations

in 2018, 2019, and 2020. Petitioners stated [redacted] base of operations in 2017 was Colorado and he lived in their RV.

Petitioners did not know where the Bureau got its comments on how they spent their time. Petitioners stated the Bureau did not ask any questions about what they did on their personal time. Petitioners stated [redacted] would spend his vacations in Idaho with [redacted] and the kids, and [redacted] and the kids would spend her vacation with [redacted] wherever he was. Petitioners stated that with the type of work [redacted] was doing, their kids got to experience other places, which is more than most kids. Petitioners stated [redacted] traveled a lot to visit [redacted]

Petitioners stated [redacted] did not change his Idaho driver's license because it was not expired. Petitioners stated this was an oversight. Petitioners stated their vehicles are registered in Idaho because that is where the vehicles are and used, by [redacted] and their kids. Petitioners stated [redacted] employer provided him with a pickup, so he had no need for a personal vehicle. Petitioners stated [redacted] used the pickup to move their RV from place to place. Petitioners stated the RV has a safe in it where [redacted] keeps his important documents and guns.

Petitioners stated they are entitled to the Idaho homeowner's exemption since [redacted] is on the deed to the house, and she lives there with their kids. Petitioners stated [redacted] had all his tax information, W-2s and 1099s, sent to the Idaho address for [redacted] convenience since she manages their taxes.

Lastly, Petitioners stated they don't recall [redacted] getting an Idaho fishing or hunting license. [redacted] did hunt and fish in Texas although it was on a private ranch.

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

the Bureau asking what additional information was needed. The Bureau replied that their case was sent to Appeals and that they needed to correspond with Appeals. The Bureau forwarded Petitioners' contact to Appeals to which Appeals e-mailed Petitioners a copy of the letter sent to them and asked them to call or e-mail if they had questions.

Petitioners responded asking for examples of what they needed to provide. Appeals replied to Petitioners telling them that they needed to show how [redacted] was identified with the states where he worked and was claiming to be domiciled. Appeals provided them 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, license, or privilege received that identifies the individual as someone belonging to the state. Appeals also told Petitioners that if they could show [redacted] was domiciled in the states where he worked, they need to be aware that Texas is a community property state and as such, half the income [redacted] earned in Texas is considered [redacted] and is taxable by Idaho because she is an Idaho resident.

Petitioners did not respond or provide any additional information. Appeals sent one final letter to Petitioners giving them a final date to provide additional information or to request a hearing. Petitioners did not respond.

Seeing that Petitioners had an opportunity to provide whatever other information/documentation they 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. *See 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. *See 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. *See Texas v. State of Florida*, 306 U.S. 398, 59 S.Ct. 563, 577 (1939).

The Bureau determined, based on information it gathered, that [redacted] domicile remained with Idaho for tax years 2017 through 2020. The Bureau's decision was based on the following facts. Petitioners had a home in Idaho and [redacted] stayed in employer provided housing or an RV while working in the other states. [redacted] maintained an Idaho driver's license. [redacted] purchased a resident Idaho fish and game license in May 2018. Petitioners registered their vehicles and RVs in Idaho. Petitioners claimed the homeowner's exemption on their house in Idaho. [redacted] immediate family lived in Idaho. And [redacted] used their Idaho address for important tax information.

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 [redacted] did to become a resident or domiciled in the other states. Petitioners stated [redacted] worked in Colorado and Texas. He had no need of a vehicle in the other states because his employer provided one for him. [redacted] did not have to buy or rent living quarters because his employer provided housing for him, or he lived in their RV. Petitioners stated the Idaho homeowner's exemption was available to them because [redacted] also owned and lived in the house. Petitioners stated [redacted] does not remember getting an Idaho fish and game license, but he did hunt and fish on a private ranch in Texas. Petitioners stated having [redacted] tax information sent to Idaho was for convenience because she handled their taxes.

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

[redacted] retained the things that identified him with Idaho, i.e., driver's license, resident fish and game license, and RV registration. There is nothing in the record that shows [redacted] did anything to identify himself with Texas or Colorado. Petitioners have not shown that [redacted] had the sentiment, feeling, or permanent association that goes with calling a place a home while he was in Texas or Colorado. (*Starer v. Gallman*, 50 A.D.2d 28, 377 N.Y.S.2d 645 (1975)).

Considering the available facts, the Tax Commission finds [redacted] domicile was Idaho. Therefore, Petitioners were required to include all [redacted] income as part of their Idaho taxable income on their Idaho individual income tax returns for each of the years 2017 through 2020.

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 [redacted] was in other states, but only for employment purposes. [redacted] 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. Petitioners did not provide any documentation or other information to show [redacted] did the things necessary, to identify himself with another state. Therefore, the Tax Commission upholds the Bureau's determination of [redacted] domicile and the inclusion of his income in Petitioners' Idaho taxable income for the tax years 2017 through 2020.

The Bureau added a grocery credit for [redacted] on Petitioners' returns because of him being domiciled in Idaho. However, Petitioners also had other dependents in 2017, 2018, and 2019 that were not given the grocery credit. Therefore, the Tax Commission adds two additional grocery credits for tax year 2017 and one additional grocery credit for tax years 2018 and 2019.

The Bureau added interest and penalty to Petitioners' tax deficiency. The Tax Commission reviewed those additions and found the addition of interest appropriate and in accordance with Idaho Code section 63-3045. However, with respect to the negligence penalty the Tax Commission finds Petitioners had reasonable cause to believe [redacted] income was not taxable by Idaho and in fact may have been advised to have their returns filed in such a manner. Therefore, the Tax Commission removes the negligence penalty.

THEREFORE, the Tax Commission AFFIRMS as MODIFIED the Notice of Deficiency Determination dated September 28, 2021, directed to

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

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2017	\$3,994	\$0	\$840	\$4,834
2018	3,823	0	640	4,463
2019	2,932	0	333	3,265
2020	4,402	0	371	<u>4,773</u>
			TOTAL DUE	<u>\$17,335</u>

Interest is computed through November 1, 2023.

An explanation of Petitioners' 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.
