

Petitioners' mention of moving expenses caused the Bureau to send a domicile questionnaire to help determine their residency. Petitioners completed the questionnaire, stating they were out of Idaho for nine months, they registered vehicles in Idaho, maintained an Idaho driver's license, etc. The Bureau reviewed the information provided by Petitioners and determined no adjustments to the Notice were warranted and they forwarded the file to the Tax Commission's Appeals Unit (Appeals) for resolution. Appeals reviewed the matter and sent Petitioners a letter discussing alternatives for redetermining a protested Notice. Petitioners did not respond.

LAW AND ANALYSIS

Petitioners' past filing history clearly shows an Idaho residency. Petitioners filed Idaho resident income tax returns consistently from 2012 through 2015 and 2017 to current, establishing Idaho as their domicile.

The long-established rule is that “[w]here a change of domicile is alleged, the burden of proof rest upon the party making the allegation.” *Desmare v. United States*, 93 U.S. 605, 610, (1876), *Pratt v. State Tax Comm’n*, 128 Idaho 883, 884, 920 P.2d 400, 401 (1996). In the present case, the burden rests with Petitioners to prove that they abandoned their domicile in Idaho and established a domicile in another state; until that burden is met, Idaho continues to be their domicile.

The Tax Commission relied upon numerous factors in the determination that Petitioners' Idaho domicile had not been abandoned; none of which by itself is dispositive of domicile, but rather as a whole, the factors were used to determine that Petitioners had not established any other state as their new domicile. These factors are as follows:

- Petitioners claimed the Idaho homeowner's exemption beginning in 2012
- Petitioners obtained resident Idaho driver's licenses continually from 2012 to present

- Petitioners registered vehicles in Idaho before and after 2016
- Petitioners voted in Idaho's general elections since 2012
- Mrs. [REDACTED] employer reported wages to Idaho's Department of Labor for the first and fourth quarters of 2016

Individuals often move across state lines, abandoning an old domicile and establishing a new one. The burden of proving intent to abandon an old and establish a new domicile is not very great, and there are consequences, sometimes-significant tax consequences, when individuals move. Taxpayers give up the benefits of being domiciled in their old state and take advantage of the benefits of the new state; they cannot take advantage of benefits from both states. In the present case, other than wages, there is little to identify Petitioners with the state of Texas. They have not given any documentation to show they have acquired Texas as their new domicile. Petitioners are Idaho residents according to Idaho Code section 63-3013 and as such, are required to file an Idaho income tax return, Idaho Code section 63-3030(a)(1).

The income shown on the resident return prepared by the Bureau was determined from the gross income reported by Petitioners on their federal income tax return. The Bureau identified Idaho withholding in the amount of \$44, and reduced Petitioners' tax due by this amount. The Bureau used the filing status of married filing joint with two personal exemptions and allowed the standard deduction based on their 2016 federal return.

In Idaho, it is well established that a Tax Commission Notice is presumed to be correct, and the taxpayer bears the burden of showing the deficiency is erroneous. *Parsons v Idaho State Tax Commission*, 110 Idaho 572, 574-575 n.2, 716 P.2d 1344, 1346-1347 n.2 (Ct. App. 1986); *Albertson's, Inc. v. State, Dept. of Revenue*, 106 Idaho 810, 814, 683 P.2d 846. 850 (1984).

Petitioners have not met their burden. Therefore, the Tax Commission upholds the Bureau's calculation of Petitioners Idaho income tax liability for tax year 2016.

CONCLUSION

From the information available, the Tax Commission does not see that Petitioners made a permanent and indefinite move from Idaho. Petitioners have been residents of Idaho since 2012 and have not broken their domicile. They did not make reasonable effort to abandon their Idaho domicile and establish a new one in Texas or any other state. Therefore, the Tax Commission finds that Petitioners were domiciled in, and residents of Idaho during tax year 2016 and as such, have a requirement to file an Idaho income tax return.

The Bureau added interest and penalty to Petitioners' 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, respectively.

THEREFORE, the Notice dated August 31, 2023, and directed to [REDACTED] is hereby 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> |
|-------------|------------|----------------|-----------------|--------------|
| 2016 | \$1,913 | \$478 | \$510 | \$2,901 |

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 _____ 2024.

IDAHO STATE TAX COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 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.
