

In the Matter of the Protest of

Petitioner.

DECISION

DECISION - 1
 [REDACTED]/[REDACTED]/1-421-300-736

In response to the Notice, Petitioner submitted her 2021 resident Idaho individual income tax return and a protest for 2017 and 2018, stating:

...I still had a mailing address in Idaho as two of my children took over my apartment while I was in Nevada.

The letter also states I owe for 2018. I filed an Idaho Tax Return in 2018 but I did not live in Idaho for the entirety of 2018. So, I'm guessing the amount in question is the months I still lived and worked in Nevada for [REDACTED] - [REDACTED] I moved back to Idaho on April 3, 2021. Nevada doesn't have state taxes so there was no filing requirement.

The Bureau acknowledged Petitioner's protest and requested she complete a domicile questionnaire. Petitioner did not complete the questionnaire. Consequently, the Bureau referred the matter to the Tax Commission's Appeals Unit (Appeals) for administrative review.

Appeals reviewed the matter and sent Petitioner a letter that discussed the methods available for redetermining a Notice. Petitioner did not respond. Appeals called Petitioner to discuss the matter. Petitioner stated she lived in Idaho for 30 years except for the two years that she lived in [REDACTED] Nevada. Petitioner stated she moved to [REDACTED] to gain employment and believes she was there from 08/2016 until 04/2018. Petitioner also provided Appeals with a completed domicile questionnaire.

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). 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).

Petitioner argued she did not need to file 2017 and 2018 Idaho returns as she lived and worked in Nevada in these years. It is clear from the information available Petitioner's domicile prior to and after 2017 and 2018 was Idaho. It is also clear from Petitioner's statements that she left Idaho to gain employment in Nevada. The question is, did Petitioner change her domicile from Idaho to Nevada during 2017 and 2018.

Generally, the Tax Commission reviews all the factors that identify an individual with a particular state. In this case, the factors pointing to Nevada are that Petitioner was living in a condominium in Nevada while working, so her time was spent in Nevada. The factors pointing to Idaho are Petitioner's children lived in her Idaho apartment which she continued to use as an address while she lived in Nevada, this same address was used for important tax documents, Petitioner had an Idaho driver's license and Petitioner titled and registered a vehicle in Idaho. In this simple analysis, more factors weigh in favor of Idaho as Petitioner's domicile than Nevada.

Income Tax Administrative Rule 030.02.a (IDAPA 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. Petitioner's statements indicate she moved to Nevada to gain employment. Petitioner was physically present in Nevada, but since she did not acquire any Nevada privilege licenses, it is arguable she did not fully abandon her Idaho domicile or acquire a Nevada domicile.

A change of domicile requires that an individual abandon his domicile and acquire another. While it is true Petitioner lived in Nevada in 2017 and 2018, there is nothing to indicate she abandoned Idaho and acquired Nevada as her state of domicile. Petitioner kept her identity with Idaho showing herself to be a resident by retaining her Idaho driver's license. There is nothing in the record that shows Petitioner did anything to identify herself as a Nevada domiciliary. Although Petitioner may have thought she became a Nevada resident, she has not shown that she had the sentiment, feeling, or permanent association that goes with calling a place a home while she was in Nevada during 2017 and 2018. (*Starer v. Gallman*, 50 A.D.2d 28, 377 N.Y.S.2d 645 (1975)).

Considering the available facts, the Tax Commission finds Petitioner did not fully abandon Idaho, nor did she acquire Nevada as her state of domicile. Therefore, Petitioner's domicile remained with Idaho and Petitioner was required to file an Idaho individual income tax return for tax years 2017 and 2018.

CONCLUSION

Based on the information available, the Tax Commission found that Petitioner did not abandon Idaho as her domicile or acquire Nevada as her domicile in 2017 and 2018. Consequently, the Tax Commission finds Petitioner's domicile remained with Idaho for tax years 2017 and 2018, and she was required to file Idaho income tax returns for these years. The Tax Commission

reviewed the returns the Bureau prepared for Petitioner and found they are a reasonable representation of Petitioner's Idaho taxable income and Idaho tax.

The Bureau added penalty and interest to Petitioner's 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.

THEREFORE, the Tax Commission AFFIRMS the Notice of Deficiency Determination dated January 23, 2025, directed to [REDACTED] [REDACTED] [REDACTED]

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>
2017	\$1,674	\$ 419	\$ 640	\$2,733
2018	751	188	255	<u>1,194</u>
				<u>\$3,927</u>

The Tax Commission DEMANDS immediate payment of this amount. Interest is calculated in accordance with Idaho Code section 63-3045.

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

DATED this _____ day of _____, 2026.

IDAHO STATE TAX COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2026,
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.
