

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of )  
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 ) DOCKET NO. 0-221-668-352 &  
 ) 1-716-167-680  
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 )  
 ) Petitioner. ) DECISION  
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(Petitioner) protested the Notices of Deficiency Determination (Notice) dated November 8, 2023, for tax year 2017 and February 9, 2024, for tax years 2020 through 2022. Petitioner disagreed with the Tax Discovery Bureau’s (Bureau) determination of her Idaho domicile which increased her taxable income for the previously mentioned years. Petitioner argues her domicile is Louisiana. The Idaho State Tax Commission (Tax Commission) reviewed the matter and hereby upholds both Notices for the following reasons.

**BACKGROUND**

Through normal Tax Commission processes, the Bureau discovered that Petitioner did not file an Idaho individual income tax return for tax year 2017. The Bureau sent Petitioner a letter informing her of the missing return and asking about her requirement to file an Idaho income tax return.

The Bureau also noted that Petitioner filed as a part-year resident for tax years 2014 through 2016 and 2018 through 2022. However, information available to the Tax Commission indicated Petitioner was a resident, so the Bureau sent her a letter giving her the opportunity to file corrected 2019 through 2022 returns. The Bureau also sent Petitioner a domicile questionnaire for additional insight into her residency.

Petitioner responded to the letters, stating:

I am an Idaho Resident but have not earned any income from Idaho in years. Can you extend the corrected returns as I am not at the Idaho address very often and just received the letters.

How do I file as a resident without having to overpay my taxes? I filed as part year because Idaho would tax me on top of already being taxed in Louisiana.

I was already paying taxes to another state. I only reside in Idaho a month or so out of the year.

The Bureau replied to Petitioner, informing her that as a resident, she must file a resident return and include all income, regardless of where it was earned. The Bureau requested copies of the other state's return,<sup>1</sup> and again asked Petitioner to complete the domicile questionnaire. The Bureau did not receive the requested information therefore, they issued the Notices.

Petitioner protested the Notices, providing a 2017 Idaho Form 43, with a copy of a nonresident return for Louisiana, copies of Louisiana non-resident and part-year resident returns for tax years 2019 through 2021, and a statement that for tax year 2022, she lived and worked in the state of Washington. The Bureau responded, requesting Petitioner submit a resident return for tax year 2017 that included all income. Petitioner did not respond. Therefore, the Bureau issued a Notice for tax year 2017 that adjusted Petitioner's return to that of a resident, with credit for taxes paid to another state, and issued a modified Notice for tax years 2019 through 2021 to allow credit for taxes paid to another state.

Petitioner protested both Notices, now stating she was not an Idaho resident for the following reasons:

- She is a wildland firefighter for US Department of Agriculture based out of Louisiana; she only uses her parents' Idaho address for convenience.

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<sup>1</sup> Idaho allows a credit for taxes paid to another state

- The Tax Commission can only issue a Notice within three years (Idaho Code Section 63-3068(a)), so 2017 and 2019 are out of statute.
- She did not have the full allotted time to correct her 2017 return before the Notice was issued.
- The Tax Commission, determined during a prior review, of unfiled returns that she was not domiciled in Idaho for tax years 2011 through 2013 and 2017, and her circumstances for 2019 through 2022 are the same.

The Bureau acknowledged Petitioner's protest, removed tax year 2019 as it was out of statute for correction, and forwarded the file to the Tax Commission's Appeals Unit (Appeals) for administrative review. Appeals reviewed the matter and sent Petitioner a letter discussing the alternatives for redetermining a protested Notice. Petitioner responded stating she was looking into the issue. She did not request an informal hearing or provide any additional documentation. Therefore, the Tax Commission issues its decision based on the information presently available.

### **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 a new domicile. Individuals who are 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 are as follows:

### **1. Home**

The home factor looks at one's maintenance and use of an Idaho residence and compares it to the nature and use of a non-Idaho residence. An individual's primary home can be a physical building (home), or it can be a community to which the individual has established strong and endearing ties.

Petitioner moved to Idaho with her parents in 1995 and filed resident tax returns through 2010, clearly establishing Idaho as her domicile. Petitioner does not own a home in Idaho; however, she did not provide any rental agreement or information of obtaining a home outside of Idaho. Petitioner has stated that her job as a wildland firefighter is transient in nature, and this is why she uses her parents address in Idaho. In her questionnaire response, Petitioner stated she resided in Idaho from January 2017 to May 2017 then began work for

in Louisiana from May 2017 to December 2017. Petitioner did not provide any addresses of residences outside of Idaho.

Petitioner provided several addresses of places she lived during tax years 2019 through 2022, mostly in Louisiana. However, Petitioner did not show that she considers Louisiana to be

her permanent home with all the sentiment, feeling, and permanent association that goes with calling a place a home. For all practical purposes, Petitioner was living outside of Idaho for employment purposes only. The home factor favors Idaho.

## **2. Active Business Involvement**

The active business involvement factor looks at the individual's pattern of employment. This includes where the individual runs his business, if he is a sole proprietor; where he earns his wages, if he is a wage earner; and where he actively takes part in a partnership, limited liability company, or corporation. Petitioner is currently employed, and has been since 2010, by the U.S. Department of Agriculture (USDA) as a wildland firefighter. According to Petitioner, her job is transient in nature. This factor favors a state other than Idaho, Louisiana in this case.

## **3. Time**

The time factor is an analysis of where an individual spends his time during the year. The Bureau requested a timeline for Petitioner's days in Idaho during the audit period. Petitioner provided a timeline stating she was in Idaho January 2017 to May 2017; December 2017 to January 2018; December 2019 to January 2020; December 2020 to January 2021; November 2021 to February 2022; and November 2022 to December 2022 for nonwork purposes. For work purposes, Petitioner reported she was in Louisiana May 2017 to November 2017; February 2018 to November 2019; February 2020 to November 2020; February 2021 to October 2021, and in Washington March 2022 to October 2022. This information shows Petitioner spent significant time outside of Idaho, but it was for work purposes only. This factor favors Idaho.

## **4. Items Near and Dear**

The factor of near and dear items deals with the location of items an individual holds "near and dear" to his heart; items with sentimental value and the personal items which enhance the quality

of life. In the questionnaire for tax year 2017, Petitioner stated she kept her near and dear items in Idaho. In the questionnaire for tax years 2019 through 2022, Petitioner stated that some items remained in Idaho while others traveled with her. Due to the transient nature of the job of a wildland firefighter it is logical to keep the items considered precious in a safe and secure location. This factor favors Idaho.

## **5. Family Connections**

The primary factors also consider the individual's family connections. This factor is an analysis of the individual's family both in and outside of Idaho. Petitioner was not married, nor did she support any dependents during the audit periods. She did, however, have family in Idaho that she would visit and stay with when she wasn't working. With significant family ties to Idaho, this factor favors Idaho.

### **Secondary Factors**

- a. Driver's License** – Petitioner has maintained an Idaho driver's license since 2006 and continues to renew it when necessary. There is no evidence Petitioner obtained a driver's license outside of Idaho.
- b. Vehicle Registrations** – Petitioner registered vehicles in Idaho in 2017 and in 2020.
- c. Voting** – Petitioner is registered to vote in County and participated in the following general November elections: 2006; 2008; 2010; 2012; 2014; 2016; 2018; and 2020. She participated in the special March election in 2017.
- d. Tax Returns** – Petitioner has filed her federal tax returns since 2010 with a Idaho address. Every Idaho and out of state return received by the Tax Commission has had the Idaho address on it.

e. **Idaho Addresses** – Every W-2 and 1099 issued to Petitioner has had the Idaho address since 2006.

When asserting a change in domicile, the burden of proof is always on the party asserting a change to show that a new domicile has been created. Petitioner has not met that burden. Considering all the facts and circumstances presented, the Tax Commission finds that Petitioner did not abandon her Idaho domicile. The Tax Commission finds her connections to Idaho for the years under review are stronger and more fixed. Her primary purpose or reason for being out of Idaho was for employment.

Petitioner's dominant reason for protesting the Notice is residency, however, she mentioned other issues too. These issues include the three-year statute to issue a Notice, adequate time to file a corrected return, and she was previously informed she is not domiciled in Idaho. The Tax Commission will now address these issues.

In addition to the residency issue, Petitioner also argues that the 2017 tax year is out of statute to issue a Notice citing Idaho Code section 63-3068(a).

Idaho Code Section 63-3068(a) states: Except as otherwise provided in this section, a notice of deficiency, as provided in section 63-3045, Idaho Code, for the tax imposed in this chapter shall be issued *within three (3) years from either the due date of the return, without regard to extensions, or from the date the return was filed, whichever is later (Emphasis added).*

When the Tax Commission does not receive a return there is no time limit for issuing a Notice. Once the Tax Commission receives a return, it has three years from that date to issue a Notice. In this case, Petitioner filed her 2017 return on June 21, 2023, the Tax Commission has until June 21, 2026, to issue a Notice. The Tax Commission is operating within Idaho Code by issuing a Notice for the non-filed tax year, and then auditing the return received.

When Petitioner filed a 2017 part-year resident return, a request was made to correct it to a full-year resident return. Petitioner argues that the full time to correct her 2017 return was not granted. The 2017 adjusting Notice was issued six-days prior to the due date for the corrected return. However, the Tax Commission had requested a full-year resident return from Petitioner twice before this letter and she did not comply.

Petitioner also argues that the Tax Commission previously told her she's not domiciled in Idaho. During a prior review, the Tax Commission did send Petitioner a letter stating she was not domiciled in Idaho for tax year 2017. It is unfortunate that this letter caused confusion and misinformed Petitioner about domicile and residency issues. Nevertheless, the Tax Commission must enforce the law and is not estopped by previous acts or conduct of its agents with reference to the determination of tax liabilities or by failure to collect the tax, nor will the mistakes or misinformation of its officers estop it from collecting the tax. (See *State of Idaho v. Adams*, 90 Idaho 195, (1965).) The Tax Commission educated Petitioner with the correct information about domicile and residency during 2023.

### **CONCLUSION**

Based on all the information presented the Tax Commission determined that Petitioner has been a resident of Idaho since 1995 and has not broken her domicile. The cumulation of primary and secondary factors favor an Idaho domicile. Petitioner continues to return to her family home in Idaho where she kept her precious items when not engaged in work, continues to title vehicles, obtain driver's licenses, votes, and use the Idaho address as her main address for taxes and documents. 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, respectively.

THEREFORE, the Notice dated November 8, 2023, and directed to is hereby AFFIRMED and MADE FINAL.

IT IS ORDERED that Petitioner pay the following tax, penalty, and interest calculated per Idaho Code Section 63-3045:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2017	\$921	\$230	\$215	\$1,366
2020	1,794	90	196	2,080
2021	3,217	161	278	3,656
2022	4,064	203	207	<u>4,474</u>
				\$11,576

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 \_\_\_\_\_ 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.

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