

In the Matter of the Protest of

Petitioner.

██████████ (Petitioner) protested the Notice of Deficiency Determination dated December 12, 2023. Petitioner disagreed with the Tax Discovery Bureau’s (Bureau) determination of her Idaho taxable income for tax years 2017 through 2019. The Tax Commission reviewed the matter and upholds the Notice of Deficiency Determination (Notice) for the reasons stated below.

Petitioner filed Idaho resident income tax returns for tax years 2001 through 2012 and 2014 through 2016. Petitioner has not filed her Idaho income tax returns for tax years 2017 through 2019. The Bureau sent Petitioner a letter asking about her requirement to file Idaho income tax returns for these years. Petitioner did not respond. The Bureau obtained income information from third-party sources and determined Petitioner was required to file Idaho income tax returns. The Bureau prepared income tax returns for Petitioner and sent her a Notice. The Bureau prepared the 2017 return as single, the 2018 return as married filing separate and the 2019 return as single. In 2018 Petitioner's spouse filed as married filing separate.

I would like to protest and request redetermination along with my filing of 2017, 2018, 2019 to be submitted to show expenses and eligibility for specific credits. Also, I was living in the state of Utah during at least 1/2 of this time when the determination was made.

The Bureau acknowledged Petitioner's protest and asked her to complete a Domicile Questionnaire and provide documentation that supports her protest. The Bureau received the

completed Domicile Questionnaire and a copy of a lease agreement for an apartment in Utah from July 10, 2020, through August 09, 2021. The Bureau reviewed the information but determined no modifications to the Notice were warranted. The Bureau received no further communications from Petitioner and referred the matter to the Tax Commission's Appeals Unit (Appeals).

Appeals reviewed the matter and sent Petitioner a letter that discussed the methods available for redetermining a Notice. Petitioner contacted Appeals and stated her returns were being prepared by a tax professional. Appeals waited for the Petitioner's returns, but nothing came. After several months, Petitioner contacted Appeals again and stated her accountant completed the returns, but she did not have the funds to pay for them. Appeals granted Petitioner one last extension, but she has yet to file the missing returns. Seeing that Petitioner had ample time to provide her returns or whatever other documentation she wanted the Tax Commission to consider, the Tax Commission decided the matter based upon the information available.

LAW AND ANALYSIS

Domicile

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).

Petitioner filed Idaho resident income tax returns 2001 through 2012, and 2014 through 2016, clearly establishing Idaho as her domicile. Therefore, Petitioner has the burden of showing she abandoned her Idaho domicile and acquired Utah or any other state as her new domicile. The following facts from the questionnaire Petitioner provided, and third-party sources were used in the Bureau's determination of Petitioner's Idaho residency.

- Petitioner did not provide any other state's income tax returns for 2017-2019.
- Petitioner owned a house in Idaho at [REDACTED] ID [REDACTED] from June 2012 through May 2018 and claimed the Idaho homeowner's exemption during that period.
- Petitioner owned a house in Idaho at [REDACTED] ID [REDACTED] from May 2018 through October 2018. No record of Idaho homeowner's exemption claimed by Petitioner.
- Petitioner rented a house in Idaho from November 2018 through January 2019.
- Petitioner was active in an Idaho business initially registering with Idaho secretary of state in March 2017 and filed annual reports for 2018 and 2019.
- Petitioner was issued an Idaho driver's license beginning in 2009, renewed in 2013, renewed in 2017, with expiration date of May 2025. Idaho Code 49-303 (13) provides that a person who is not a resident of the state of Idaho does not qualify for an Idaho driver's license.

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 Petitioner did to become domiciled in Utah. The only evidence Petitioner provided to show residency outside of Idaho was a Utah rental agreement which was for years outside the determination period.

A change of domicile requires that an individual abandon one domicile and acquire another. While it may be true Petitioner lived in Utah in 2019, there is nothing to indicate she abandoned Idaho and acquired Utah as her state of domicile. Petitioner has not shown that she had

the sentiment, feeling, or permanent association that goes with calling a place a home while she was in Utah. (*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 have the requisite intent to abandon Idaho, nor did she intend to acquire Utah as her state of domicile. Therefore, Petitioner's domicile remained with Idaho and Petitioner was required to file Idaho individual income tax returns for the years in question.

Deductions and Credits

Petitioner received 1099-Misc income in tax years 2017 through 2019 and argues the returns prepared by the Bureau do not show expenses and specific credits she may qualify for. Appeals acknowledges that it is reasonable for certain incomes to have related expenses. However, deductions are a matter of legislative grace, and taxpayers bear the burden of proving that they are entitled to the deductions claimed. *INDOPCO, Inc. v. Commissioner*, 503 U.S. 79, 84, 112 S. Ct. 1039, 117 L.Ed.2d 226 (1992); *New Colonial Ice Co. v. Helvering*, 292 U.S. 435, 440, 54 S. Ct. 788, 78 L.Ed. 1348 (1934). If a taxpayer is unable to provide adequate proof of any material fact upon which a deduction depends, no deduction is allowed, and the taxpayer must bear its misfortune. *Burnet v. Houston*, 283 US. 223, 51 S.Ct. 413 (1931). Here, Petitioner has provided no documentation to show her entitlement to a deduction for expenses or specific credits not shown in the Notice, she has not met her burden.

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). In the present matter, Petitioner has provided no documentation to show the Notice is incorrect.

CONCLUSION

Petitioner received income in the taxable years 2017 through 2019 that exceeded the threshold for filing Idaho income tax returns. Petitioner was required to file Idaho income tax returns. Petitioner did not show that the returns the Bureau prepared were incorrect. The Tax Commission reviewed the returns the Bureau prepared and found them reasonable based on the information available. Therefore, the Tax Commission upholds the Notice.

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

THEREFORE, the Notice of Deficiency Determination dated December 12, 2023, and directed to [REDACTED] is AFFIRMED.

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	\$7,923	\$1,981	\$2,446	\$12,350
2018	193	48	51	292
2019	11,373	2,843	2,486	<u>16,702</u>
			TOTAL DUE	<u>\$29,344</u>

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 _____ 2025.

IDAHO STATE TAX COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2025,
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.
