

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
)
 ,) DOCKET NO. 1-502-869-504
)
 Petitioner.) DECISION
)
 _____)

The Tax Discovery Bureau (Bureau) at the Idaho State Tax Commission (Tax Commission) issued a Notice of Deficiency Determination (Notice) to (Petitioner) asserting a combined income tax deficiency of \$30,668 for tax years 2016 through 2018. Petitioner filed a timely appeal and petition for redetermination of the Notice. Petitioner did not request a hearing or submit additional documentation during the appeals process. The Tax Commission has reviewed the file and hereby issues its decision to affirm the Notice.

BACKGROUND

Prior Audits

The Bureau has previously audited Petitioner twice for failure to file Idaho individual income tax returns. In September 2011, the Bureau issued a Notice for tax years 2007 through 2009. In April 2017, the Bureau issued a Notice for tax years 2011 through 2015. The Tax Commission has reviewed the prior audits and compliance notes. The Tax Commission finds Petitioner has a history of not: (1) Responding to correspondence; (2) Filing tax returns; and (3) Following through on payment arrangements. Petitioner did not appeal the prior Notices.

Current Audit

Petitioner is a registered nurse and appears to travel for her job. She did not file Idaho individual income tax returns for tax years 2016 through 2018. In 2016, she renewed her Idaho driver’s license, registered a vehicle in Idaho, and obtained a vehicle title loan in Idaho. Third

parties report she received Idaho wages of \$22,300, \$26,050, and \$3,987 in 2016, 2017, and 2018, respectively. Petitioner also received 1099-Misc and 1099-R income during the referenced tax years. All income statements listed an Idaho address.

The Bureau requested Petitioner file Idaho individual income tax returns for the referenced tax years but did not receive a response. Therefore, the Bureau calculated Petitioner's Idaho tax liability based off income information reported to the Tax Commission and issued a Notice. In part, the Bureau determined Petitioner was a resident for tax years 2016 and 2017, and a part-year resident for tax year 2018.

Petitioner appealed contending she was a nonresident of Idaho and that she did not owe any Idaho taxes. The Bureau requested Petitioner complete a residency questionnaire and provide documentation supporting her claims. The Bureau did not receive the requested information. Therefore, the Bureau transferred the case to the Tax Appeals Unit for the continuation of the appeal process.

LAW

A taxpayer's residency status determines what income the state of Idaho can tax. Idaho taxes residents on all income, including income from sources outside of Idaho. Idaho taxes part-year residents on all income received while residing in Idaho and any income received from Idaho sources when not living in Idaho. Idaho taxes nonresidents only on income from Idaho sources.

The term "resident," for income tax purposes, means any individual who: (1) Is domiciled in the state of Idaho for the entire taxable year; or (2) Maintains a place of abode in this state for the entire taxable year and spends in the aggregate more than two hundred seventy (270) days of the taxable year in this state. Presence within the state for any part of a calendar day shall constitute

a day spent in the state unless the individual can show that his presence in the state for that day was for a temporary or transitory purpose.¹

The term domicile means 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. An individual can have several residences or dwelling places, but he legally can have but one domicile at a time.²

Domicile, once established, is never lost until there is a concurrence of a specific intent to abandon an old domicile, an intent to acquire a specific new domicile, and the actual physical presence in a new domicile.³ All individuals who have been domiciled in Idaho for the entire taxable year are residents for Idaho income tax purposes, even though they have actually resided outside Idaho during all or part of the taxable year, except as provided in Section 63-3013(2), Idaho Code.⁴

As stated previously, domicile is defined in the income tax regulations as the place an individual *intends* to be his permanent home, the place he *intends* to return to whenever he may be absent. Intention is a decisive factor in the determination of whether any particular residence which a person may occupy is his domicile. The test of intent with respect to a purported new domicile has been stated as “whether the place of habitation is the permanent home of a person, with the range of sentiment, feeling and permanent association with it.”

The burden of proving a change of domicile is upon the party asserting the change. The evidence to effect a change of domicile must be "clear and convincing." Thus, a taxpayer who has been historically domiciled in Idaho who is claiming to have changed his domicile must be able to

¹ Idaho Code section 63-3013.

² Income Tax Administrative Rule 30.02

³ Income Tax Administrative Rule 30.02.a

⁴ Income Tax Administrative Rule 30.02.b

support his intentions with unequivocal acts. In some instances, this is a very easy burden to support, while in others it is, in varying degrees, more difficult.

An individual is not residing in Idaho if he is present in Idaho only for a temporary or transitory purpose. Likewise, an individual is not residing outside Idaho merely by his temporary or transitory absence from Idaho.⁵ An individual is present in Idaho only for a temporary or transitory purpose if he does not engage in any activity or conduct in Idaho other than that of a vacationer, seasonal visitor, tourist, or guest.⁶ Presence in Idaho for ninety (90) days or more during a taxable year is presumed to be for other than a temporary or transitory purpose. To overcome the presumption, the individual must show that his presence was consistent with that of a vacationer, seasonal visitor, tourist, or guest.⁷

The length of time in Idaho is only one factor in determining whether an individual is present for other than a temporary or transitory purpose. Other factors to be considered include business activity or employment conducted in Idaho, banking and other financial dealings taking place in Idaho, and family and social ties in Idaho. In general, an individual is present for other than a temporary or transitory purpose if his stay is related to a significant business, employment or financial purpose or the individual maintains significant family or social ties in Idaho.⁸

PETITIONER'S POSITION

As stated previously, Petitioner's principal argument on appeal is she is a nonresident of Idaho and does not owe any Idaho taxes. Petitioner submitted the following written statement with her appeal:

This letter is an appeal of the Notice of Deficiency Determination dated December 3, 2021. This notice stated that I owe for the years 2016, 2017, and a partial for

⁵ Income Tax Administrative Rule 40.02.

⁶ Income Tax Administrative Rule 40.02.b

⁷ Income Tax Administrative Rule 40.02.c

⁸ Income Tax Administrative Rule 40.02.a

2018 which is when your office recognizes my no longer living in the state. The facts in this matter are that I left Idaho in March of 2016 to work for a company out of Atlanta due to a separation from my now ex husband and lived in WA, from March of 2016 until July of 2016. I returned to Idaho in August of 2016 until the end of December 2016. In January of 2017 I moved to WA until May of that year. Next was IA until Oct of 2017. I was back in ID from Oct until the first week of January 2018. Then it was back to WA for 2018. Idaho Code: Title 63, Chapter 30 63-3013 states that: (1) The term "resident," for income tax purposes, means any individual who:(a) Is domiciled in the state of Idaho for the entire taxable year; or (b) Maintains a place of abode in this state for the entire taxable year and spends in the aggregate more than two hundred seventy (270) days of the taxable year in this state. Presence within the state for any part of a calendar day shall constitute a day spent in the state unless the individual can show that his presence in the state for that day was for a temporary or transitory purpose.

Since the above doesn't apply to me or my situation in the years 2016 thru 2018, I don't owe the state of ID taxes for the listed years.

ANALYSIS

Based on the information available, Petitioner was a resident of Idaho for tax years 2016 and 2017. She had a place of abode in Idaho, spend considerable time in Idaho, had significant employment in Idaho, and maintained significant family and social ties in Idaho. Additionally, she continued to claim Idaho residency for purposes of renewing her driver's license, registering vehicles, and on financial documents. Based on the evidence, she was only temporarily residing outside of Idaho for work purposes and did not intend to abandon her Idaho domicile until early 2018.

Petitioner argues Idaho Code section 63-3013 does not apply to her but does not clearly state why. Considering her prior audit and collection history, the Tax Commission finds her argument is without merit and is an attempt to avoid filing and paying taxes.

Petitioner has not provided clear and convincing evidence that she intended to abandon her Idaho domicile prior to early 2018. The Tax Commission finds Petitioner, having not introduced

any evidence and no supporting testimonial evidence, failed to prove that she changed her domicile. As a result, the Tax Commission will uphold the Notice.

The Bureau added interest and penalty to the income tax deficiency. The Tax Commission has reviewed those additions, found both to be appropriate per Idaho Code section 63-3045 and 63-3046, and has updated interest accordingly. Interest is calculated through December 22, 2022 and will continue to accrue at the rate set forth in Idaho Code section 63-3045(6) until paid.

THEREFORE, the Notice of Deficiency Determination dated November 17, 2021, is hereby APPROVED, in accordance with the provisions of this decision, and is AFFIRMED and MADE FINAL.

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>
2016	\$10,595	\$2,649	\$2,126	\$15,370
2017	10,644	2,661	1,787	15,092
2018	590	148	74	812
				<u>\$31,274</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 _____ 2022.

IDAHO STATE TAX COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2022,
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.
