

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 0-257-566-720
<div style="background-color: black; width: 300px; height: 15px;"></div> ,	)	
	)	
Petitioners.	)	DECISION
<hr style="width: 45%; margin-left: 0;"/>	)	

The Idaho State Tax Commission (Tax Commission) reviewed your case and this is our final decision. We modify the Notice of Deficiency Determination (Notice) dated January 24, 2020. This means **you need to pay \$7,108** of tax, penalty, and interest for tax years 2012 through 2015. The Tax Commission now DEMANDS immediate payment of this amount.

Based on information in Tax Commission records, the Tax Discovery Bureau (Bureau) had reason to believe  (Petitioners) may be required to file Idaho resident individual income tax returns for tax years 2012 through 2015. The Bureau sent Petitioners a letter asking them about their Idaho filing requirement. Petitioners did not respond. Therefore, the Bureau prepared resident returns on their behalf and sent them a Notice.

In response to the Notice, Petitioners sent a prompt protest disagreeing with the Bureau’s determination that they have a requirement to file Idaho resident individual income tax returns for the previously mentioned years.

“During the years in question we lived in a number of different states. We lived where work was obtained. We rented our home and thought it best to have our important mail (such as tax returns) sent to our relatives in Idaho. Our domiciles were as follows: 2012: Utah, 2013: Pennsylvania, 2014: Utah and 2105: Utah/Idaho. All appropriate tax returns were filed with the appropriate states when due. We were not required to file resident returns in Idaho for 2012-2014. In addition, we moved back to Idaho in 2015 and filed the appropriate part year return for that year.”

The Bureau acknowledged Petitioners' protest and requested they complete a residency and domicile questionnaire to help determine their residency status. Petitioners completed the questionnaire, giving the following information:

- their principal residences during 2012-2015 changed from Utah to Pennsylvania, back to Utah, to Nevada, then to Indiana, and then to California.
- they both maintained their Idaho driver's licenses for 2012-2015
- they registered vehicles in Idaho during 2012 and in 2015
- they kept photographs, sports equipment, firearms, pets, etc. with them at each location
- they filed income tax returns in Utah for tax years 2012-2014; Pennsylvania for tax years 2012 and 2013; and Indiana and California for tax year 2015
- they spent 108 days in Idaho, for non-work purposes between 2012 and 2015, with no span away from Idaho longer than six months

The Bureau reviewed Petitioners' responses, but the information provided did not change their determination that Petitioners were Idaho residents required to file Idaho resident income tax returns. Petitioners did submit copies of returns filed in Utah and Pennsylvania for tax years 2013 and 2014, and the Bureau modified the Notice to allow credit for taxes paid to those states. However, Petitioners did not file the missing Idaho returns; therefore, the Bureau referred the matter to the Tax Commission's Appeals unit for administrative review.

During the administrative review, Petitioners provided a copy of the returns filed in Utah, California, and Indiana for tax year 2015. The Bureau again modified the Notice to allow credit for taxes paid to other states.

Appeals notified Petitioners of the modified Notice and informed them of the options available for redetermining the Notice. Petitioners requested an informal hearing which was held on July 16, 2020. Petitioners did not provide any documentation during the hearing but in the weeks that followed, Petitioners forwarded a copy of their 2012 Utah return. Again, the Tax

Commission adjusted the Notice to allow credit for taxes paid to another state. Petitioners continue to object to the Notice and have yet to file Idaho resident returns. Therefore, the Tax Commission will decide this matter.

Petitioners' past filing history with the State of Idaho shows they began filing resident income tax returns in 2006. They continued filing resident returns through 2011 and then again in tax years 2016 through 2019. Petitioners clearly established an Idaho domicile. The long-established rule is that "[w]here a change of domicile is alleged, the burden of proof rests 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.

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 any of the other states. Petitioners lived in their trailer and "moved year to year depending on where work was available." This statement is supported by the fact that the addresses provided by Petitioners in the domicile questionnaire were largely RV parks, KOA campgrounds or hotels/motels. Petitioners have not provided adequate documentation to show they acquired Utah or Pennsylvania, or any other state they worked in as their new domicile. Petitioners are Idaho residents according to Idaho Code § 63-3013 and as such, are required to file Idaho income tax returns, Idaho Code §63-3030(a)(1).

However, as mentioned previously, Petitioners did work in other states and did file returns in these other states. Idaho Code § 63-3029 provides for a credit for income tax paid to another state or territory. The Tax Commission adjusted each year shown in the Notice to allow this credit and reduce the amount of Idaho income tax due.

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 determination of Petitioners' Idaho income tax liability for tax years 2012 through 2015, after modifications.

The Bureau added interest and penalty to Petitioners' tax deficiency. The Tax Commission reviewed those additions and found them proper per Idaho Code §§ 63-3045 and 63-3046, respectively.

Therefore, the Notice dated January 24, 2020, directed to [REDACTED], is hereby MODIFIED and as modified, is APPROVED 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>
2012	\$ 725	\$181	\$219	\$1,125
2013	1,830	458	492	2,780
2014	821	205	188	1,214
2015	1,382	346	261	<u>1,989</u>
			TOTAL DUE	\$7,108

Interest is computed to January 8, 2021.

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

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2020.

IDAHO STATE TAX COMMISSION

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2020,  
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:

[REDACTED]

Receipt No.

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