

19-2132

TAX TYPE: INCOME TAX

TAX YEAR: 2015

DATE SIGNED: 8/28/2020

COMMISSIONERS: J. VALENTINE, R. ROCKWELL, M. CRAGUN, L. WALTERS

GUIDING DECISION

BEFORE THE UTAH STATE TAX COMMISSION

<p>TAXPAYER,</p> <p style="text-align: center;">Petitioner,</p> <p>v.</p> <p>AUDITING DIVISION OF THE UTAH STATE TAX COMMISSION,</p> <p style="text-align: center;">Respondent.</p>	<p style="text-align: center;">INITIAL HEARING ORDER</p> <p>Appeal No. 19-2132</p> <p>Account No. #####</p> <p>Tax Type: Income Tax</p> <p>Tax Year: 2015</p> <p>Judge: Phan</p>
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Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: REPRESENTATIVE FOR TAXPAYER, by Teleconference
TAXPAYER, by Teleconference

For Respondent: RESPONDENT, Manager, Income Tax Auditing, by Teleconference

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission on June 9, 2020 for an Initial Hearing in accordance with Utah Code Ann. §59-1-502.5. The matter before the Commission is Petitioner's ("Taxpayer's") appeal filed under Utah Code §59-1-501 of a Utah individual income tax audit deficiency for tax year 2015. Respondent ("Division") had issued the Notice of Deficiency and Estimated Income Tax on September 30, 2019, on the basis that the Taxpayer was a Utah resident individual for all of 2015. The Taxpayer claims that he was not a Utah resident from DATE, 2015 until he moved back to Utah on DATE, 2015. It was his position that he was a resident of STATE-1 from DATE, 2015 until DATE, 2015, and then after returning to Utah was unemployed for the remainder of 2015. Because the Taxpayer was unemployed while in Utah he did not file a part-year Utah return for the period from DATE, 2015 until DATE 2015. However, at the hearing the Taxpayer conceded that he was a Utah resident from DATE 2016 until DATE

2016. Failure to timely file and timely pay penalties were issued with the audit. The amount of tax, penalties and interest due as of the date the Notice of Deficiency was issued is as follows:

	<u>Tax</u>	<u>Interest¹</u>	<u>Penalties</u>	<u>Total as of Notice Date</u>
2015	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$

APPLICABLE LAW

Utah imposes income tax on resident individuals of the state, in Utah Code Subsection 59-10-104(1) as follows:

. . . . a tax is imposed on the state taxable income of a resident individual as provided in this section

“Resident individual” is defined in Utah Code Subsection 59-10-103(1)(q) as follows:

(q)(i) "Resident individual" means:

(A) an individual who is domiciled in this state for any period of time during the taxable year, but only for the duration of the period during which the individual is domiciled in this state; or

(B) an individual who is not domiciled in this state but: (I) maintains a place of abode in this state; and (II) spends in the aggregate 183 or more days of the taxable year in this state.

Beginning with the 2012 tax year, Utah Code §59-10-136 was adopted regarding what constitutes domicile in the State of Utah. This was a substantial change in which Utah enacted a statute that sets out a hierarchy of very specific factors that constitute Utah domicile. This legislation indicates a clear change from the pre-2012 factors for determining domicile in Utah. After the 2012 law had been in effect for a number of years, the Utah Legislature made some limited, specific revisions to the law effective beginning with tax year 2018, but the revisions were not made retrospective to the tax year at issue in this appeal. Utah Code §59-10-136 as in effect for the 2015 tax year provides as follows:

- (1) (a) An individual is considered to have domicile in this state if:
 - (i) except as provided in Subsection (1)(b), a dependent with respect to whom the individual or the individual's spouse claims a personal exemption on the individual's or individual's spouse's federal individual income tax return is enrolled in a public kindergarten, public elementary school, or public secondary school in this state; or
 - (ii) the individual or the individual's spouse is a resident student in accordance with Section 53B-8-102 who is enrolled in an institution of higher education described in Section 53B-2-101 in this state.
- (b) The determination of whether an individual is considered to have domicile in this state may not be determined in accordance with Subsection (1)(a)(i) if the individual:
 - (i) is the noncustodial parent of a dependent:

¹ Interest continues to accrue on the unpaid balance until paid in full.

- (A) with respect to whom the individual claims a personal exemption on the individual's federal individual income tax return; and
 - (B) who is enrolled in a public kindergarten, public elementary school, or public secondary school in this state; and
 - (ii) is divorced from the custodial parent of the dependent described in Subsection (1)(b)(i).
- (2) There is a rebuttable presumption that an individual is considered to have domicile in this state if:
 - (a) the individual or the individual's spouse claims a residential exemption in accordance with Chapter 2, Property Tax Act, for that individual's or individual's spouse's primary residence;
 - (b) the individual or the individual's spouse is registered to vote in this state in accordance with Title 20A, Chapter 2, Voter Registration; or
 - (c) the individual or the individual's spouse asserts residency in this state for purposes of filing an individual income tax return under this chapter, including asserting that the individual or the individual's spouse is a part-year resident of this state for the portion of the taxable year for which the individual or the individual's spouse is a resident of this state.
- (3) (a) Subject to Subsection (3)(b), if the requirements of Subsection (1) or (2) are not met for an individual to be considered to have domicile in this state, the individual is considered to have domicile in this state if:
 - (i) the individual or the individual's spouse has a permanent home in this state to which the individual or the individual's spouse intends to return after being absent; and
 - (ii) the individual or the individual's spouse has voluntarily fixed the individual's or the individual's spouse's habitation in this state, not for a special or temporary purpose, but with the intent of making a permanent home.
- (b) The determination of whether an individual is considered to have domicile in this state under Subsection (3)(a) shall be based on the preponderance of the evidence, taking into consideration the totality of the following facts and circumstances:
 - (i) whether the individual or the individual's spouse has a driver license in this state;
 - (ii) whether a dependent with respect to whom the individual or the individual's spouse claims a personal exemption on the individual's or individual's spouse's federal individual income tax return is a resident student in accordance with Section 53B-8-102 who is enrolled in an institution of higher education described in Section 53B-2-101 in this state;
 - (iii) the nature and quality of the living accommodations that the individual or the individual's spouse has in this state as compared to another state;
 - (iv) the presence in this state of a spouse or dependent with respect to whom the individual or the individual's spouse claims a personal exemption on the individual's or individual's spouse's federal individual income tax return;
 - (v) the physical location in which earned income as defined in Section 32(c)(2), Internal Revenue Code, is earned by the individual or the individual's spouse;

- (vi) the state of registration of a vehicle as defined in Section 59-12-102 owned or leased by the individual or the individual's spouse;
 - (vii) whether the individual or the individual's spouse is a member of a church, a club, or another similar organization in this state;
 - (viii) whether the individual or the individual's spouse lists an address in this state on mail, a telephone listing, a listing in an official government publication, other correspondence, or another similar item;
 - (ix) whether the individual or the individual's spouse lists an address in this state on a state or federal tax return;
 - (x) whether the individual or the individual's spouse asserts residency in this state on a document, other than an individual income tax return filed under this chapter, filed with or provided to a court or other governmental entity;
 - (xi) the failure of an individual or the individual's spouse to obtain a permit or license normally required of a resident of the state for which the individual or the individual's spouse asserts to have domicile; or
 - (xii) whether the individual is an individual described in Subsection (1)(b).
- (4) (a) Notwithstanding Subsections (1) through (3) and subject to the other provisions of this Subsection (4), an individual is not considered to have domicile in this state if the individual meets the following qualifications:
- (i) except as provided in Subsection (4)(a)(ii)(A), the individual and the individual's spouse are absent from the state for at least 761 consecutive days; and
 - (ii) during the time period described in Subsection (4)(a)(i), neither the individual nor the individual's spouse:
 - (A) return to this state for more than 30 days in a calendar year;
 - (B) claim a personal exemption on the individual's or individual's spouse's federal individual income tax return with respect to a dependent who is enrolled in a public kindergarten, public elementary school, or public secondary school in this state, unless the individual is an individual described in Subsection (1)(b);
 - (C) are resident students in accordance with Section 53B-8-102 who are enrolled in an institution of higher education described in Section 53B-2-101 in this state;
 - (D) claim a residential exemption in accordance with Chapter 2, Property Tax Act, for that individual's or individual's spouse's primary residence; or
 - (E) assert that this state is the individual's or the individual's spouse's tax home for federal individual income tax purposes.
- (b) Notwithstanding Subsection (4)(a), an individual that meets the qualifications of Subsection (4)(a) to not be considered to have domicile in this state may elect to be considered to have domicile in this state by filing an individual income tax return in this state as a resident individual.
- (c) For purposes of Subsection (4)(a), an absence from the state:
- (i) begins on the later of the date:
 - (A) the individual leaves this state; or

- (B) the individual's spouse leaves this state; and
 - (ii) ends on the date the individual or the individual's spouse returns to this state if the individual or the individual's spouse remains in this state for more than 30 days in a calendar year.
- (d) An individual shall file an individual income tax return or amended individual income tax return under this chapter and pay any applicable interest imposed under Section 59-1-402 if:
 - (i) the individual did not file an individual income tax return or amended individual income tax return under this chapter based on the individual's belief that the individual has met the qualifications of Subsection (4)(a) to not be considered to have domicile in this state; and
 - (ii) the individual or the individual's spouse fails to meet a qualification of Subsection (4)(a) to not be considered to have domicile in this state.
- (e)
 - (i) Except as provided in Subsection (4)(e)(ii), an individual that files an individual income tax return or amended individual income tax return under Subsection (4)(d) shall pay any applicable penalty imposed under Section 59-1-401.
 - (ii) The commission shall waive the penalties under Subsections 59-1-401(2), (3), and (5) if an individual who is required by Subsection (4)(d) to file an individual income tax return or amended individual income tax return under this chapter:
 - (A) files the individual income tax return or amended individual income tax return within 105 days after the individual fails to meet a qualification of Subsection (4)(a) to not be considered to have domicile in this state; and
 - (B) within the 105-day period described in Subsection (4)(e)(ii)(A), pays in full the tax due on the return, any interest imposed under Section 59-1-402, and any applicable penalty imposed under Section 59-1-401, except for a penalty under Subsection 59-1-401(2), (3), or (5).
- (5)
 - (a) If an individual is considered to have domicile in this state in accordance with this section, the individual's spouse is considered to have domicile in this state.
 - (b) For purposes of this section, an individual is not considered to have a spouse if:
 - (i) the individual is legally separated or divorced from the spouse; or
 - (ii) the individual and the individual's spouse claim married filing separately filing status for purposes of filing a federal individual income tax return for the taxable year.
 - (c) Except as provided in Subsection (5)(b)(ii), for purposes of this section, an individual's filing status on a federal individual income tax return or a return filed under this chapter may not be considered in determining whether an individual has a spouse.
 - (6) For purposes of this section, whether or not an individual or the individual's spouse claims a property tax residential exemption under Chapter 2, Property Tax Act, for the residential property that is the primary residence of a tenant of the individual or the individual's spouse may not be considered in determining domicile in this state.

Utah Code Ann. §59-1-1417 provides, “[i]n a proceeding before the commission, the burden of proof is on the petitioner...”

The Commission has been granted the discretion to waive penalties and interest. Utah Code Ann. §59-1-401(14) provides, “Upon making a record of its actions, and upon reasonable cause shown, the commission may waive, reduce, or compromise any of the penalties or interest imposed under this part.”

The Commission has promulgated Administrative Rule R861-1A-42 to provide additional guidance on the waiver of penalties and interest, as follows in pertinent part:

- (2) Reasonable Cause for Waiver of Interest. Grounds for waiving interest are more stringent than for penalty. To be granted a waiver of interest, the taxpayer must prove that the commission gave the taxpayer erroneous information or took inappropriate action that contributed to the error.
- (3) Reasonable Cause for Waiver of Penalty. The following clearly documented circumstances may constitute reasonable cause for a waiver of penalty:
 - (a) Timely Mailing...
 - (b) Wrong Filing Place...
 - (c) Death or Serious Illness...
 - (d) Unavoidable Absence...
 - (e) Disaster Relief...
 - (f) Reliance on Erroneous Tax Commission Information...
 - (g) Tax Commission Office Visit...
 - (h) Unobtainable Records...
 - (i) Reliance on Competent Tax Advisor...
 - (j) First Time Filer...
 - (k) Bank Error...
 - (l) Compliance History...
 - (m) Employee Embezzlement...
 - (n) Recent Tax Law Change...
- (4) Other Considerations for Determining Reasonable Cause.
 - (a) The commission allows for equitable considerations in determining whether reasonable cause exists to waive a penalty. Equitable considerations include:
 - (i) Whether the commission had to take legal means to collect the taxes;
 - (ii) If the error is caught and corrected by the taxpayer;
 - (iii) The length of time between the event cited and the filing date;
 - (iv) Typographical or other written errors; and
 - (v) Other factors the commission deems appropriate.
 - (b) Other clearly supported extraordinary and unanticipated reasons for late filing or payment, which demonstrate reasonable cause and the inability to comply, may justify a waiver of the penalty.
 - (c) In most cases, ignorance of the law, carelessness, or forgetfulness does not constitute reasonable cause for a waiver. Nonetheless, other supporting circumstances may indicate that reasonable cause for waiver exists.
 - (d) Intentional disregard, evasion, or fraud does not constitute reasonable cause for waiver under any circumstance.

DISCUSSION

The issue in this appeal is whether the Taxpayer was a “resident individual” in the State of Utah for the purposes of Utah Code Sec. 59-10-104, for all of tax year 2015. It was the Taxpayer’s argument at the Initial Hearing that he was a resident of STATE-1 until DATE 2015. The Taxpayer acknowledges he moved to Utah on DATE 2015, but he did not find work in Utah until sometime in 2016. Both parties acknowledged at the hearing that the Taxpayer filed a STATE-1 2015 income tax return, although neither party submitted it as an exhibit for the hearing. The Taxpayer did not file a Utah part-year return for the period from DATE 2015 to DATE 2015. The Taxpayer and his representative explained at the hearing the reason the Taxpayer had not done so was because he had no employment in Utah after he had moved to Utah in September and his only income after moving to Utah was STATE-1 unemployment income.

The Taxpayer was not married in 2015 and had filed his federal individual income tax return with the filing status of “Head of Household.” Therefore, the Taxpayer did not have a “spouse” pursuant to Utah Code Subsection 59-10-136(5). On his federal return, the Taxpayer had claimed ##### exemptions. This included himself, ##### children and the mother of ##### of his children. In issuing the audit deficiency, the Division allowed the Taxpayer’s filing status as “Head of Household” and calculated the tax based on the Taxpayer having the ##### total exemptions he had claimed on his federal return.

The Taxpayer explained that he had ##### children who resided in Utah with his mother. His mother, who was the children’s grandmother, had custodial guardianship of these children. These ##### children were attending Utah public schools in grades K through 12. It was undisputed that the Taxpayer was a noncustodial parent. In fact, these children did not have a “custodial parent” they had a custodial guardian, which was their grandmother. The Taxpayer stated at the hearing that he was never married to the mother of these ##### children and they had been separated for many years. He also explained that the mother of these ##### children was not their custodial parent. She had no custodial rights to these children. The Taxpayer did pay support for these children, which payments went to his mother, the children’s grandmother, and he had claimed them as dependents on his tax return. In addition to the older ##### children, the Taxpayer had ##### younger children who lived with the Taxpayer as well as these children’s mother during the tax year at issue. These children were too young to attend school in 2015. As noted above, the Taxpayer also claimed these children and their mother as dependents on his

2015 federal tax return. The mother of the ##### younger children was not the mother of the older ##### children.

The Taxpayer had been renting a residence in Utah in 2014, where he had been living with his ##### youngest children and their mother. The Taxpayer did not own a residence in Utah in 2015 and states that he had never registered to vote in any state. He also did not attend a Utah institution of higher education in 2015. The Taxpayer did have a commercial driver license issued by the State of Utah, with a special CERTIFICATION from the State of Utah, which was required for his type of employment.

In August 2014, the Taxpayer obtained employment in STATE-1. This was full time permanent employment and the Taxpayer stated he moved to STATE-1 with the intent to remain in STATE-1 indefinitely. He explained that because of the NATURAL RESOURCE BOOM and so many workers, housing was hard to find and most workers were living in trailer camps. He said he was able to find a more permanent lodging situation and his youngest ##### children and their mother did move to STATE-1 to live with him in 2014. They were able to find an apartment to lease in STATE-1 by November 2014. The Taxpayer had filed a 2014 federal return, part-year Utah return and part-year STATE-1 return listing on those returns his STATE-1 address. The Taxpayer did not obtain a STATE-1 Driver License because his work did not require that he obtain one from STATE-1 and he did not want to take time off work to get one in STATE-1. While in STATE-1, the Taxpayer did return to Utah a few times to visit his ##### children that continued to live in Utah. He bought a car for his oldest daughter who lived in Utah to drive. That vehicle was registered to him in Utah. He states his vehicle, which he drove in STATE-1 was registered in STATE-1.

The Taxpayer also explained that apartments were very expensive in STATE-1. In September 2015, the Taxpayer got laid off. Rather than stay there where it was very expensive to live they moved from STATE-1 on September 15, 2015 and returned to Utah where they resided for a while with the Taxpayer's mother until they could find an apartment of their own to rent. They were living in Utah when his year-end tax documents were issued and when they filed their 2015 returns. The Division points out that they had used a Utah address on their 2015 tax returns, but the Taxpayer points out that he was living in Utah by the time those returns were due. The Taxpayer had filed his 2014 returns using the STATE-1 address and the Taxpayer provided copies of the 2014 returns. Neither party presented copies of the 2015 federal or STATE-1 return. The Taxpayer's representative stated that the Taxpayer had filed a STATE-1 full year return for 2015 because he had no Utah income or employment in Utah after moving to Utah on DATE 2015. After moving to Utah his only income was unemployment income issued by the State of

STATE-1. For the 2015 tax year, the Taxpayer had paid taxes to STATE-1 in the amount of \$\$\$\$ and the Division has allowed a credit in that amount against the Utah income taxes the Division assessed.

The Division had originally argued that the Taxpayer was domiciled in Utah under Subsection 59-10-136(1). At the hearing, the Division no longer argued that the Taxpayer was domiciled in Utah under Subsection 59-10-136(1). However, upon giving Subsection 59-10-136(1) further scrutiny the Commission finds that Subsection (1) applies in this matter for the entire 2015 tax year. Under Subsection (1) an individual is domiciled in Utah if they have “a dependent with respect to whom the individual” . . . “claims a personal exemption on the individual's . . . federal tax return” who is enrolled in a public kindergarten, public elementary school, or public secondary school in Utah. The Taxpayer did claim as dependents on his federal return his ##### older children who were residing in Utah and enrolled in public school in Utah.

There is an exception under Subsection 59-10-136(1)(b) to being domiciled in Utah under Subsection 59-10-136(1). Subsection 59-10-136(1)(b) provides, “The determination of whether an individual is considered to have domicile in this state may not be determined in accordance with Subsection (1)(a)(i) if the individual: (i) is the noncustodial parent of a dependent . . . **and** (ii) is divorced from the custodial parent of the dependent described in Subsection (1)(b)(i)(emphasis added).” Although the Taxpayer was clearly the noncustodial parent of his ##### children who were enrolled in a Utah public kindergarten, elementary, or secondary school, the Taxpayer does not meet all of the requirements to qualify for the exception for domicile set out at Subsection (1)(b)(ii). Specifically, Utah Code Subsection (1)(b)(ii) requires that to qualify for the exception, an individual must be “divorced from the custodial parent” of the dependents. The Taxpayer is not divorced from the custodial parent of these children. To the contrary, he was never married to the mother of his children who were enrolled in a Utah public kindergarten, elementary, or secondary school during 2015 and the mother of the children was not their custodial parent. In this matter there was no “custodial parent” and, therefore, the Taxpayer could not be divorced from the “custodial parent.” Thus, the Taxpayer does not meet the exception to domicile under Subsection 59-10-136(1)(b). The Taxpayer has the burden of proof in this matter, and has not provided any information to show that his ##### children who lived in Utah were not enrolled in a Utah public kindergarten, elementary, or secondary school during any portion of the 2015 tax year. Consequently, the Taxpayer is domiciled in Utah for the entire 2015 tax year under Subsection 59-10-136(1).

As the Commission finds that the Taxpayer was domiciled in Utah under Subsection (1) for all of tax year 2015, the Commission need not analyze whether the Taxpayer would also be

domiciled in Utah under Subsection 59-10-136(2)² or Subsection (3). However, some limited observations on these other subsections may be helpful in this matter. Because the Taxpayer did not own a residence in Utah in 2015, had never registered to vote in Utah and did not claim residency in Utah in 2015 on a Utah Individual Income Tax Return for that year, he would not meet any of the criteria for domicile under Subsection (2). The Taxpayer was not absent from Utah long enough for the 761 day exception set out at Subsection 59-10-136(4) to apply.

The Division had argued at the hearing that the Taxpayer would be considered domiciled in Utah for the entire 2015 tax year under Subsection 59-10-136(3). Subsection (3) provides “if the requirements of Subsection (1) or (2) are not met for an individual to be considered to have domicile in this state, the individual is considered to have domicile” based on “the preponderance of the evidence, taking into consideration the totality of the following facts and circumstances” The facts and circumstances are twelve factors that are listed at Subsection (3)(b). The Taxpayer and his representative argued that if you look at the twelve factors listed in Subsection (3)(b) they clearly support that the Taxpayer was not domiciled in Utah from January 1, 2015 until September 15, 2015. However, because the Taxpayer was domiciled in Utah for all of 2015 under Subsection (1) the Subsection (3) factors are not applicable. The Subsection (3) factors contain many of the traditional factors considered under traditional notions of domicile. However, the Utah Legislature abandoned the traditional notions of domicile when the Legislature adopted Utah Code Sec. 59-10-136 effective beginning in tax year 2012. Instead of the traditional domicile notions, the Legislature set out a very specific hierarchy of factors to consider, clearly giving more weight to certain factors and the most weight to the Subsection (1) factors. In *Appeal No. 17-1624, Conclusions of Law No. 18*, the Commission explained:

Prior to Section 59-10-136 becoming effective for tax year 2012, the three factors that the Utah Legislature described and set forth as rebuttable presumptions in Subsection 59-10-136(2) (as well as the two education factors described in Subsection 59-10-136(1)) had been among the numerous and non-exhaustive list of factors that the Commission had used to determine income tax domicile for years prior to 2012 (as set forth in Rule 2 [R865-9I-2]and/or Rule 52[R884-24P-52]). In Section 59-10-136, however, the Utah Legislature established a hierarchy of specific factors described in Subsections 59-10-136(1) and (2) to establish income tax domicile, with the education factors creating an absolute indication of domicile and the three Subsection 59-10-136(2) factors creating rebuttable presumptions of domicile. Thus, each of the factors described in Subsections 59-

² Subsection 59-10-136(2) provides, “There is a rebuttable presumption that an individual is considered to have domicile in this state if: (a) the individual or the individual's spouse claims a residential exemption in accordance with Chapter 2, Property Tax Act, for that individual's or individual's spouse's primary residence (b) the individual or the individual's spouse is registered to vote in this state in accordance with Title 20A, Chapter 2, Voter Registration; or (c)the individual or the individual's spouse asserts residency in this state for purposes of filing an individual income tax return under this chapter”

10-136(1) and (2) were given greater import than they had received in establishing income tax domicile for years prior to 2012 (when each of these factors was merely one of the many factors with which domicile was determined).

As the Taxpayer was domiciled in Utah during all of tax year 2015, he was a Utah resident individual for this period and subject to Utah individual income tax on all his income, including the income he earned while living and working in STATE-1, subject to a credit for the taxes imposed by STATE-1. The Division has already allowed the credit for taxes paid to STATE-1 in this matter and the audit assessment of tax is upheld.

Penalties and interest were assessed in the audit pursuant to Utah Code Sections 59-1-401 & 59-1-402. Utah Code Subsection 59-1-401(14) does provide that the Commission may waive, reduce or compromise penalties or interest upon a showing of reasonable cause. Utah Admin. Rule R861-1A-42 sets out what constitutes reasonable cause for waiver of penalties, and separately what constitutes reasonable cause for waiver of interest. Regarding penalties, the Tax Commission does generally waive penalties based on equitable considerations due to the complexity and fact-sensitive nature of domicile cases. For this reason, the Tax Commission finds reasonable cause for waiver of the penalties.

However, under Utah Admin. Rule R861-1A-42(2), reasonable cause for waiver of interest is limited to instances where the taxpayer can prove “that the commission gave the taxpayer erroneous information or took inappropriate action that contributed to the error.” The Taxpayer has not asserted a basis for waiver of interest.

DECISION AND ORDER

Based on the foregoing, the Tax Commission finds that the Taxpayer was domiciled in Utah and, therefore, a Utah resident individual for all of tax year 2015. The Commission sustains the audit as to the tax and the interest accrued thereon. The Commission finds reasonable cause for waiver of the penalties. It is so ordered.

This decision does not limit a party's right to a Formal Hearing. However, this Decision and Order will become the Final Decision and Order of the Commission unless any party to this case files a written request within thirty (30) days of the date of this decision to proceed to a Formal Hearing. Such a request shall be mailed, or emailed, to the address listed below and must include the Petitioner's name, address, and appeal number:

Utah State Tax Commission
Appeals Division
210 North 1950 West
Salt Lake City, Utah 84134

or emailed to:
taxappeals@utah.gov

Failure to request a Formal Hearing will preclude any further appeal rights in this matter.

DATED this _____ day of _____, 2020.

John L. Valentine
Commission Chair

Michael J. Cragun
Commissioner

Rebecca L. Rockwell
Commissioner

Lawrence C. Walters
Commissioner

Notice of Payment Requirement: Any balance due as a result of this order must be paid within thirty (30) days of the date of this order, or a late payment penalty could be applied.