

24-98

TAX TYPE: INDIVIDUAL INCOME TAX

TAX YEAR: 2020

DATE SIGNED: 2/19/2025

COMMISSIONERS: J. VALENTINE, M. CRAGUN, R. ROCKWELL, J. FRESQUES

BEFORE THE UTAH STATE TAX COMMISSION

PETITIONER,	INITIAL HEARING ORDER
Petitioner,	Appeal No. 24-98
v.	Account No: #####-IIT
INCOME TAX AND EDUCATION DIVISION OF THE UTAH STATE TAX COMMISSION,	Tax Type: Audit - Individual Income Tax
Respondent.	Tax Year: 2020
	Judge: Phan

Presiding:

Jane Phan, Administrative Law Judge

Appearances:

For Petitioner: PETITIONER

For Respondent: RESPONDENT REP, Audit Manager

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission on October 23, 2024, for an Initial Hearing in accordance with Utah Code Ann. §59-1-502.5. Petitioner (“Taxpayer”) timely appealed pursuant to Utah Code §59-1-501 the individual income tax audit deficiency for the 2020 tax year issued by Respondent (“Division”). The Division had issued the Notice of Deficiency and Estimated Income Tax on December 6, 2023. The audit tax, penalties and interest that had accrued to the date of the Notice of Deficiency are the following:

Year	Audit Tax	Interest	Penalties	Total As of Notice of Deficiency Date ¹
2020	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$

¹ Interest continues to accrue on any unpaid balance.

APPLICABLE LAW

Under Utah Code Ann. §59-10-104(1), tax is imposed on the state taxable income of a resident individual.

The term “state taxable income” is defined in Utah Code Ann. §59-10-103(1)(w), below in pertinent part:

- (i) subject to Section 59-10-1404.5, for a resident individual, means the resident individual’s adjusted gross income after making the:
 - (A) additions and subtractions required by Section 59-10-114; and
 - (B) adjustments required by Section 59-10-115...

Effective for the 2020 tax year, Utah Code Ann. §59-10-103(1)(q) defines “resident individual” as follows:

“Resident individual” means 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.

Effective for the 2020 tax year, the factors considered for determination of domicile are addressed in Utah Code Ann. §59-10-136, 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 or a tax credit under Section 24, Internal Revenue Code, 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:
 - (A) with respect to whom the individual claims a personal exemption or a tax credit under Section 24, Internal Revenue Code, 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:
 - (i) votes in this state in a regular general election, municipal general election, primary election, or special election during the taxable year; and
 - (ii) has not registered to vote in another state in that taxable year; 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 or a tax credit under Section 24, Internal Revenue Code, 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 or a tax credit under Section 24, Internal Revenue Code, 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;
 - (xii) whether the individual is an individual described in Subsection (1)(b);
 - (xiii) whether the individual:
 - (A) maintains a place of abode in the state; and
 - (B) spends in the aggregate 183 or more days of the taxable year in the state; or
 - (xiv) whether the individual or the individual's spouse:
 - (A) did not vote in this state in a regular general election, municipal general election, primary election, or special election during the taxable year, but voted in the state in a general election, municipal general election, primary election, or special election during any of the three taxable years prior to that taxable year; and
 - (B) has not registered to vote in another state during a taxable year described in Subsection (3)(b)(xiv)(A).
 - (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and for purposes of Subsection (3)(b)(xiii), the commission may by rule define what constitutes spending a day of the taxable year in the state.
- (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 or a tax credit under Section 24, Internal Revenue Code, 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) Notwithstanding Subsections (2) and (3), for individuals who are spouses for purposes of this section and one of the spouses has domicile under this section, the other spouse is not considered to have domicile in this state under

Subsection (2) or (3) if one of the spouses establishes by a preponderance of the evidence that, during the taxable year and for three taxable years prior to that taxable year, that other spouse:

- (a) is not an owner of property in this state;
 - (b) does not return to this state for more than 30 days in a calendar year;
 - (c) has not received earned income as defined in Section 32(c)(2), Internal Revenue Code, in this state;
 - (d) has not voted in this state in a regular general election, municipal general election, primary election, or special election; and
 - (e) does not have a driver license in this state.
- (6) (a) Except as provided in Subsection (5), 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 (6)(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.
- (7) 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.

Under Utah Code Ann. §59-1-1417(1), the burden of proof is generally upon the petitioner in proceedings before the commission, as follows:

- (1) In a proceeding before the commission, the burden of proof is on the petitioner except for determining the following in which the burden of proof is on the commission:
- (a) whether the petitioner committed fraud with intent to evade a tax, fee, or charge;
 - (b) whether the petitioner is obligated as the transferee of property of the person that originally owes a liability or a preceding transferee, but not to show that the person that originally owes a liability is obligated for the liability; and
 - (c) whether the petitioner is liable for an increase in a deficiency if the increase is asserted initially after a notice of deficiency is mailed in accordance with Section 59-1-1405 and a petition under Part 5, Petitions for Redetermination of Deficiencies, is filed, unless the increase in the deficiency is the result of a change or correction of federal taxable income;
 - (i) required to be reported; and
 - (ii) of which the commission has no notice at the time the commission mails the notice of deficiency.

DISCUSSION

The Division issued the audit deficiency for tax year 2020 on the basis that the Taxpayer was a Utah resident individual from DATE to DATE. Utah imposes income tax on Utah resident individuals pursuant to Utah Code §59-10-104. For the tax year at issue in the audit, “resident individual” was defined at Utah Code §59-10-103(1)(q) to mean “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.” It was the Division’s position in the audit that in regards to tax year 2020, the Taxpayer was a Utah resident individual pursuant to Utah Code §59-10-103(1)(q) for the period of DATE to DATE.

1. Facts Presented at Initial Hearing

The facts presented at this Initial Hearing were the following. The Taxpayer had lived and worked in CITY, Utah for 20 years. She was registered to vote in Utah, had a Utah driver license and her vehicle was registered in Utah. She lived in rental housing which she rented from her employer, the COMPANY. The Taxpayer explained at the hearing that she retired from the COMPANY in DATE. Once she retired she had to move from the rental housing. She stated that she did not work anywhere in 2020, but received her pension benefits. She stated that her plan was to spend some time visiting with her parents who lived in STATE 1 over the holidays and then move to STATE 2 to help a friend whose child had recently died. After retiring, she packed up her rental in Utah and went to STATE 1 for the holidays. She explained at the hearing that she ended up staying longer in STATE 1 than originally planned due to COVID. She stated that she had wanted to be in STATE 2 but was fearful of COVID and locked down in STATE 1. She realized at some point that there was no COVID in CITY, Utah and she wanted to vote in the 2020 election, so she said she was thinking of possibly just returning to Utah. She stated that she moved back to CITY briefly on DATE, when she was able to temporarily rent one of the COMPANY’S housing units. She stated she stayed in Utah for 35 days and while in Utah she voted in the 2020 general election in Utah. She stated she was not able to find a permanent place to stay in Utah and ended up moving from Utah on DATE to STATE 2, where she remained for the rest of 2020.

During the audit period, the Taxpayer was single and had no dependents. She filed her tax year 2020 federal individual income tax return with the filing status of “single” and claimed no dependents. The address that she provided on the return was a STATE 2 address, but by the time the return was filed in 2021 she was living in STATE 2. In addition to her pension income in

2020, the Taxpayer had received \$\$\$\$ reported as wage income on a W-2 from the COMPANY. The Taxpayer explained this was actually a payout of unused vacation time. The Taxpayer understood this to be from her Utah employment so when she filed her Utah individual income tax return for tax year 2020 as a part-year resident, she did claim as Utah income the \$\$\$\$ from the W-2. On her Utah 2020 individual income tax return she listed that she was a resident of Utah from DATE to DATE. In addition to the W-2 income, she claimed a portion of her pension income based on the 35 days that she was residing in Utah from DATE to DATE. The Taxpayer did not file a STATE 1 income tax return and stated she did not think she needed to file one there because she was only in STATE 1 temporarily.

As noted above, the Taxpayer voted in Utah in the 2020 general election. She did not register to vote in any other state in 2020. She also renewed her vehicle registration in Utah in 2020 and kept her Utah driver license for all of 2020. The Taxpayer had not been absent from Utah for a period of 761 consecutive days, when she returned back to Utah in September 2020. Also, she did not own a residence in Utah or any other state at any time during 2020. From DATE to DATE, the Taxpayer did not lease a residence in Utah or any other state; rather, she stayed at her parents' residence in STATE 1. On DATE, she temporarily leased a residence from the COMPANY. The Taxpayer did not attend a Utah university at any point during 2020. She also explained that she did not join or belong to any clubs or maintain church memberships in Utah, STATE 1 or any other state in 2020 due to COVID. She had continued to keep her post office box in CITY, Utah in 2020 and she stated that she had left that as her address for all her credit cards and bank accounts, because she did not know where she would eventually end up. She also used her parents' address in STATE 1 for some mail. After moving to STATE 2 on DATE, she got a post office box there.

2. Division's Position

The Division's representative stated that it is the Division's position that the Taxpayer was domiciled in Utah from DATE to DATE, based on the provisions of Utah Code Ann. §59-10-136. The Division acknowledged that the Taxpayer would not be considered domiciled in Utah under Subsection 59-10-136(1) because she did not have any dependents and did not attend a state institution of higher education herself in 2020, but pointed out that the Taxpayer was presumed domiciled in Utah under 59-10-136(2)(b) because she had voted in Utah in the 2020 general election and she had not registered to vote in any other state in 2020. The Division explained that voting in Utah creates a rebuttable presumption of domicile in Utah, and asserted that the Taxpayer did not rebut the presumption. The Division noted that the Taxpayer had moved from Utah on DATE, after she had voted in Utah. The Division's audit included the Taxpayer's

W-2 wage income payout of the unused vacation pay as well as allocated the Taxpayer's pension income, which was paid out monthly to the Taxpayer, for the period from January 1, 2020 to November 5, 2020.

The Division's representative noted that Subsection (4) provides that an individual is not considered to be domiciled in Utah if they are absent from the state for at least 761 days and certain other circumstances are met. However, the Taxpayer was not absent from Utah for a 761 day period during any period of time that included the audit period, and she returned to Utah for more than 30 days in 2020.

The Division's representative stated that in order to avoid the double taxation of income, a credit is allowed for taxes imposed by another state. The Division pointed out that there was no credit applied for taxes paid to another state, because the Taxpayer had not paid individual income taxes to another state during 2020. The Division's representative also stated that the Division had not assessed any penalties with the audit. The Division acknowledged that the Taxpayer had filed a Utah return and, although it was not correct, understood the domicile issues were difficult.

3. Tax Commission Conclusion

The Tax Commission considers the facts and arguments presented by the parties and applies the applicable law to determine whether the Taxpayer was considered to have domicile in Utah for the audit period at issue in this appeal. Utah Code §59-10-136 addresses when an individual is considered or is not considered to have domicile in Utah. Pursuant to Utah Code §59-10-136, the Commission must determine whether the Taxpayer is considered to be domiciled in Utah "in accordance with this section," specifically in accordance with Subsections 59-10-136(1), (2)(a), (2)(b), (2)(c), and/or (3). At the outset, the Commission notes that the Taxpayer did not have a spouse or dependents in 2020. The Division acknowledged, and the facts support, that the Taxpayer would not be domiciled in Utah under Subsections (1),² and instead the Division argued that the Taxpayer was considered to have domicile in Utah under Subsection (2).

As the Division noted, there is an exception to domicile under Utah Code Ann. §59-10-136(4). The Commission agrees with the Division that the Taxpayer does not meet the criteria for this exception. Utah Code §59-10-136(4) provides that an individual is not considered to have domicile in the State of Utah under Subsection 59-10-136(1), (2), or (3) if "the individual

² Under Utah Code Ann. §59-10-136(1), if a dependent claimed on the individual's or individual's spouse's federal return is enrolled in a Utah public kindergarten, elementary, or secondary school, the individual is considered domiciled in Utah. The Taxpayer did not claim any dependents on her 2020 federal return. Additionally, Subsection (1) provides that if an individual or individual's spouse is a resident student enrolled in an institution of higher education in Utah, the individual is considered domiciled in Utah. The Taxpayer was not a resident student enrolled in an institution of higher education in Utah in 2020.

. . . [is] absent from the state for at least 761 consecutive days” and “during the time period described in Subsection (4)(a)(i), . . . the individual . . . [does not] (A) return to this state for more than 30 days in a calendar year. . .” As noted above, the Taxpayer did not meet the qualifications of Subsection (4) to not be considered to have domicile in Utah in 2020 because she had not been absent at least 761 consecutive days for a period that included any portion of the audit period, and she returned to Utah for more than 30 days in 2020.

Therefore, the Tax Commission considers whether the Taxpayer is considered to have domicile in Utah under Utah Code §59-10-136(2). Subsection (2) of Utah Code §59-10-136 sets forth three circumstances that create a rebuttable presumption of domicile in Utah. The Taxpayer is not presumed to be domiciled in Utah for the 2020 tax year under Utah Code §59-10-136(2)(a), which provides as follows: “(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...” The Taxpayer did not own a residence in Utah in 2020 and therefore Subsection (2)(a) is not applicable.

The Division argued that the Taxpayer was presumed domiciled in Utah from DATE to DATE pursuant to Subsection 59-10-136(2)(b). Utah Code §59-10-136(2)(b) 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: (i) votes in this state in a regular general election, municipal general election, primary election, or special election during the taxable year; and (ii) has not registered to vote in another state in that taxable year...” It was not in dispute that the Taxpayer voted in Utah in the regular general election in 2020 and that she did not register to vote in another state during 2020. Therefore, the Taxpayer is presumed to be domiciled in Utah pursuant to Subsection 59-10-136(2)(b). The Tax Commission then considers whether the Taxpayer has rebutted this presumption of domicile.

The Legislature did not provide what circumstances are sufficient or are not sufficient to rebut the presumptions in Utah Code Ann. §59-10-136(2), leaving it to the Courts and the Commission to determine which circumstances are sufficient or not sufficient to rebut the presumptions of domicile found in Subsection 59-10-136(2). The Commission has considered grounds for rebuttal in numerous prior decisions. In addition, the Utah Supreme Court held in *Buck v. Tax Comm’n*, 2022 UT 11 (February 24, 2022) that “...the presumption of domicile that results from claiming a primary residential property tax exemption is rebuttable. And...taxpayers are not statutorily barred from having a meaningful opportunity to rebut the presumption.” Furthermore, the Supreme Court noted that “in applying these rather orthodox principles of

domicile, courts look to a multiplicity of factors including, but most certainly not limited to ‘the places where the [individual] exercises civil and political rights, pays taxes, owns real and personal property, has driver’s and other licenses, maintains bank accounts, belongs to clubs and churches, has places of business or employment, and maintains a home for his [or her] family,’” (citing *Coury v. Prot*, 85 F. 3d 244, 251 (5th Cir. 1996)) and noted “[n]o single factor is determinative.” (Internal citations omitted). Thus, the Commission will also consider the multiplicity of factors for rebuttal of a Subsection (2) presumption, as described by the Court in *Buck*.

The Tax Commission considers the factors for rebuttal as set out in *Buck* and finds that the Taxpayer’s circumstances are insufficient to rebut the Subsection 59-10-136(2)(b) presumption of domicile for the 2020 tax year. Utah was the state where the Taxpayer had exercised her civil and political rights. She voted in the 2020 general election. She also maintained a Utah driver license, Utah vehicle registration and had left her address for her bank accounts and credit cards at her Utah Post Office box, which she had continued to maintain during the audit period. Utah, in fact, was the only state for which she had filed a state individual income tax return, although the return she filed in Utah was only a part-year resident return. The Taxpayer was retired, and did not work in any state in 2020. The Taxpayer did not own a residence in Utah or elsewhere at any time in 2020. The Taxpayer did not lease a residence either, until DATE, and that was the residence she leased in Utah when she returned briefly to Utah for 35 days before moving to STATE 2. In fact, in her response to the Division’s questionnaire, the Taxpayer admitted she was thinking about returning to Utah more permanently when she came back to Utah on DATE. For the period DATE to the end of DATE, when the Taxpayer was not in Utah, she stayed at her parents’ residence in STATE 1. She stated that she never intended to stay there for so long but had felt stuck there due to COVID. While she may have intended to move to STATE 2 earlier in the year, she did not actually move to STATE 2 during the audit period. Considering this multiplicity of factors as described by the Court in *Buck*, the Taxpayer has not rebutted the Subsection 59-10-136(2)(b) presumption of domicile in Utah for the period of DATE to DATE.

The Taxpayer is also presumed to be domiciled in Utah from DATE to DATE under Utah Code Ann. § 59-10-136(2)(c). Utah Code Ann. §59-10-136(2)(c) provides that there is a rebuttable presumption that an individual is considered to have domicile in this state if: “(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.” The Taxpayer filed a part-year resident Utah individual income tax return claiming to be a Utah resident from DATE to DATE. However, the Taxpayer acknowledged that she was a Utah resident during this time period, so her residency for this period is not in dispute.

If the Tax Commission did not find the Taxpayer domiciled in Utah pursuant to Utah Code Subsection 59-10-136(2), the Commission would then look to Subsection 59-10-136(3). Subsection 59-10-136(3) provides that “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.” Subsection 59-10-136(3)(b) provides a number of circumstances to consider in determining whether an individual has domicile in Utah. However, in this appeal, as the Tax Commission has found the Taxpayer domiciled in Utah under Subsection 9-10-136(2) for the audit period, the Commission does not look further at Subsection 59-10-136(3).

Because the Commission finds that the Taxpayer was domiciled in Utah from DATE to DATE, the Taxpayer was a Utah “resident individual” whose income is subject to tax in Utah under Utah Code Ann. §59-10-104(1). Therefore, the audit tax deficiency and the interest accrued thereon should be upheld.



Jane Phan
Administrative Law Judge

DECISION AND ORDER

Based on the foregoing, the Commission finds the Taxpayer was domiciled in Utah for the period of DATE to DATE. The Notice of Audit Deficiency imposing additional individual income tax and interest for tax year 2020 is upheld. 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 19th day of February, 2025.

 John L. Valentine Commission Chair		 Michael J. Cragun Commissioner
 Rebecca L. Rockwell Commissioner		 Jennifer N. Fresques 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.