

**BOARD OF TAX APPEALS
STATE OF LOUISIANA**

JAHANGEER A. KHAN,
Petitioner

V.

DOCKET NO. C07411A

DEPARTMENT OF REVENUE,
STATE OF LOUISIANA,
Respondent

JUDGMENT AND REASONS

This matter came before the Board for a hearing on the merits on June 14, 2023. Presiding at the hearing were Francis J. “Jay” Lobrano, Chairman, Vice-Chairman Cade R. Cole, and Judge Lisa Woodruff-White (Ret.). Present before the Board were Miranda Scroggins, attorney for the Department of Revenue, State of Louisiana (the “Department”), and Jahangeer A. Khan (the “Taxpayer”), representing himself. At the conclusion of the hearing, the Board took the matter under advisement. The Board now issues Judgment in accordance with the attached Reasons.

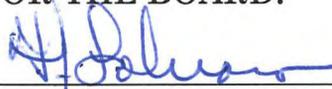
IT IS ORDERED, ADJUDGED AND DECREED that there be Judgment in favor of the Taxpayer and against the Department.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Taxpayer does not owe Louisiana income tax on his income from the 2018 and 2020 Tax Years.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Assessments bearing Letter ID’s L0704971280 and L01023213328 be and are hereby CANCELED.

JUDGMENT RENDERED AND SIGNED at Baton Rouge, Louisiana,
this 7th day of September, 2023.

FOR THE BOARD:



Francis J. “Jay” Lobrano, Chairman
Louisiana Board of Tax Appeals

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REASONS FOR JUDGMENT

This matter came before the Board for a hearing on the merits on June 14, 2023. Presiding at the hearing were Francis J. “Jay” Lobrano, Chairman, Vice-Chairman Cade R. Cole, and Judge Lisa Woodruff-White (Ret.). Present before the Board were Miranda Scroggins, attorney for the Department of Revenue, State of Louisiana (the “Department”), and Jahangeer A. Khan (the “Taxpayer”), representing himself. At the conclusion of the hearing, the Board took the matter under advisement. The Board now issues the foregoing Judgment for the following reasons.

Facts:

The Taxpayer seeks redetermination of Assessments of individual income tax, interest, and penalties in the total amount of \$8,198.16 (collectively the “Assessments”) for the 2018 and 2020 Tax Years (collectively the “Tax Years”). The Taxpayer asserts that he was not required to file Louisiana returns or pay Louisiana income tax for the Tax Years because he was not a resident of Louisiana.

Taxpayer claims that he was a resident of Seattle, Washington from 2017 to 2020. At the hearing, the Taxpayer introduced the following documents to support his contention: 2018 and 2020 W-2 Wage and Tax Statements from Anthem Companies, Inc. (“Anthem”) showing a Seattle address for the Taxpayer; a Lease Contract for the Taxpayer’s apartment in Seattle; email receipts for the lease payments; a utility bill from the City of Seattle dated September 5, 2018, addressed to the Taxpayer at his address in Seattle; a postmarked envelope from Corporate Graphics Int’l., addressed to the Taxpayer at his Seattle address; the Taxpayer’s

emailed lease termination notice, effective December 1, 2020; and a Class Action Notice of settlement concerning a utility named Seattle City Light.

Taxpayer moved to Seattle in September of 2017. Prior to moving to Seattle, Taxpayer had lived in Louisiana at his parents' home since 2002. At the hearing, Taxpayer testified that when he moved to Seattle, he planned to stay there permanently, but also that he planned to stay in Washington for as long as his employer, Anthem, would have him. In any case, Taxpayer voluntarily resigned from his position with Anthem in December of 2020. Taxpayer testified that he made efforts to find a job in Washington after he resigned, and that he interviewed for another position, albeit unsuccessfully.

Taxpayer testified that he had a Washington driver's license that he lost while moving. This assertion was challenged by the testimony of the Department's witness, Tax Officer Phadra Ragusa. Ms. Ragusa told the Board that she searched the State's driver's license records and found no evidence that Taxpayer had surrendered his Louisiana driver's license or obtained a Washington driver's license. However, Ms. Ragusa admitted that it was possible that the Taxpayer obtained a Washington driver's license without it appearing in the records that she searched.

Ms. Ragusa testified that the Department inquired as to whether the Taxpayer owed Louisiana income tax for the Tax Years after being notified that the Taxpayer used a Louisiana address on his federal return. Taxpayer explained that he used his parents' address on his 2018 and 2020 federal returns so that he could receive mail there. According to Ms. Ragusa, the Department did not assess the Taxpayer for 2019 because he did not use his parents' Louisiana address on that year's return.

Ms. Ragusa testified that she requested certain documents from the Taxpayer, such as a driver's license, voter registration, tax returns from another state, a homestead exemption from another state, or a vehicle registration from another state. Taxpayer did not provide the Department with those documents. However, at the hearing, Taxpayer was able to explain why he was unable to provide most of the requested documents. Taxpayer admitted that he never voted in Washington. Taxpayer also explained that he could not provide a Washington income tax return

because Washington does not levy an income tax. Taxpayer did not purchase a vehicle in Washington because he brought his parents car with him and otherwise used company cars and public transportation. In addition, Taxpayer was able to provide W-2 Wage Statements at the hearing, although he apparently did not provide those documents to Ms. Ragusa.

Discussion:

The Taxpayer claims that he was not a Louisiana resident under La. R.S. 47:31(1), which states:

Resident individuals. Every person residing within the state, or the personal representative in the event of death, shall pay a tax on net income from whatever source derived, except as hereinafter exempted. Every natural person domiciled in the state, and every other natural person who maintains a permanent place of abode within the state or who spends in the aggregate more than six months of the taxable year within the state, shall be deemed to be a resident of this state for the purpose of determining liability for income taxes under this Chapter.

The Taxpayer did not maintain a permanent place of abode in Louisiana during the Tax Periods. He did not spend, in aggregate, more than six months of either the 2018 or 2020 Tax Years in Louisiana. Thus, the only criteria under which the Taxpayer could be found to be a Louisiana resident is domicile.

The concept of domicile in La. R.S. 47:31(1) is analogous to the concept of domicile in La. Civ. Code Art. 38. See *Viviano v. Bridges*, 2011-1474, (La. App. 3 Cir. 4/4/12), 87 So.3d 1007, writ denied, 2012-1362 (La. 9/28/12), 98 So.3d 847. Louisiana case law has traditionally held that domicile consists of two elements: (1) residence and (2) an intent to remain. *Landiak v. Richmond*, 2005-0758, p. 9 (La. 3/24/05), 899 So.2d 535, 542. Once established, there is a legal presumption against a change in domicile and overcoming this presumption requires positive and satisfactory proof of the intent to remain in the new place and to abandon the former domicile. *Becker v. Dean*, 2003-2493, p. 10-11 (La. 9/18/03), 854 So.2d 864, 871; *Pattan v. Fields*, 95-1936 (La. App. 1 Cir. 1995), 669 So.2d 1233. When there is no declaration that a person has changed his domicile, proof of the intent depends upon the circumstances. *Messer v. London*, 438 So.2d 546 (La. 1983); *Herpin v. Boudreaux*, 98-306 (La. App. 3 Cir.

3/5/98), 709 So.2d 269, *writ denied*, 98-0578 (La. 3/11/98), 712 So.2d 859.

Furthermore, the Louisiana Supreme Court has opined:

When documentary or other objective evidence casts doubt on a person's statements regarding intent, it is incumbent on courts to weigh the evidence presented in order to determine domicile in fact. Otherwise, the legal concept of domicile is meaningless and every person would be considered legally domiciled wherever he says he is domiciled. Some of the types of documentary evidence commonly considered by courts to determine domicile in fact include such things as voter registration, homestead exemptions, vehicle registration records, driver's license address, statements in notarial acts, and evidence that most of the person's property is housed at that location.

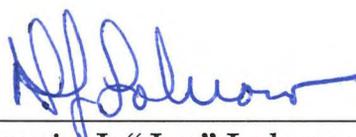
Landiak, 2005-0758, p. 9-11, 899 So.2d at 543-44.

In this case, the Board finds the testimony of both the Taxpayer and Ms. Ragusa to be credible. Because there is competing witness testimony, the Board affords greater evidentiary weight to the types of documentary evidence.

At the hearing the Taxpayer provided supporting documentation for his claims, whereas the only documents introduced by the Department were tax notices and questionnaires. These documents reflect the Department's position and practices, but they have no bearing on the Taxpayer's intent, which is the critical question in this case. Thus, when the Board considers the documentary evidence that is actually relevant to the substantive dispute, the evidence weighs strongly in favor of the Taxpayer. Based on the record in this case, the Board concludes that the Taxpayer was not domiciled in Louisiana for purposes of the 2018 and 2020 Tax Years. Absent a Louisiana domicile, the Taxpayer does not meet the criteria for Louisiana residency under La. R.S. 47:31(1). Therefore, the Taxpayer's income earned during the Tax Periods, which was undisputedly earned from a Washington source, is not subject to Louisiana income tax.

Baton Rouge, Louisiana, this 7th day of September, 2023.

FOR THE BOARD:



**Francis J. "Jay" Lobrano, Chairman
Louisiana Board of Tax Appeals**