

16-1603

TAX TYPE: INCOME TAX

TAX YEAR: 2012, 2013, 2014, 2015

DATE SIGNED: 4/11/2019

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

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BEFORE THE UTAH STATE TAX COMMISSION

TAXPAYER-1 and TAXPAYER-2,  Petitioners,  v.  AUDITING DIVISION OF THE UTAH STATE TAX COMMISSION,  Respondent.	<b>FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION</b>  Appeal No. 16-1603  Account No. 131128825-002-IIT Tax Type: Personal Income Tax Tax Years: 2012, 2013, 2014, 2015  Judge: Jensen
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**Presiding:**

Rebecca L. Rockwell, Commissioner  
Clinton Jensen, Administrative Law Judge

**Appearances:**

Petitioner: REPRESENTATIVE FOR TAXPAYER'S, for the Taxpayer  
TAXPAYER-1, Taxpayer, appearing by telephone  
Respondent: REPRESENTATIVE FOR RESPONDENT, Assistant Attorney General  
RESPONDENT, Income Tax Audit Manager, for the Division

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for a Formal Hearing on September 6, 2017. Based on the evidence and testimony presented at the hearing, the Tax Commission makes its:

FINDINGS OF FACT

1. Petitioners (the "Taxpayers") are appealing the assessment of Utah individual income tax for the 2012, 2013, 2014, and 2015 tax years.
2. On October 3, 2016, the Auditing Division of the Utah State Tax Commission (the "Division") sent Statutory Notices of Deficiency. The Statutory Notices indicated that the Taxpayers owed additional tax and interest as follows:

<u>Year</u>	<u>Tax</u>	<u>Penalties</u>	<u>Interest<sup>1</sup></u>
2012	\$\$\$\$\$	None	\$\$\$\$\$
2013	\$\$\$\$\$	None	\$\$\$\$\$
2014	\$\$\$\$\$	None	\$\$\$\$\$
2015	\$\$\$\$\$	None	\$\$\$\$\$

3. The Division based its audit on the assertion that the Taxpayers were full year residents of Utah for tax purposes for all of the years of the Audit Period.

4. Petitioners TAXPAYER-1 and TAXPAYER-2 were married in Utah on July 16, 1983. They have never obtained a legal separation or divorce.

5. TAXPAYER-1 has lived and worked in CITY-1, STATE-1 for at least the past 20 years. During that same time, TAXPAYER-2 has lived and worked in CITY-2, Utah.

6. Any reference to the “audit period” is to the period from January 1, 2012 through December 31, 2015. Any reference to “Petitioners” or “Taxpayers” is to TAXPAYER-1 and TAXPAYER-2.

7. During the audit period, Petitioners filed married filing jointly federal individual income tax returns and joint nonresident Utah individual income tax returns.

8. On each year’s Utah return, Petitioners included all income earned by Petitioners in their adjusted gross income. With their Utah returns, Petitioners filed a TC-40B on which they allocated all of TAXPAYER-1’s items of income and loss as “nonresident” income to the State of STATE-1. On the TC-40B they allocated all of TAXPAYER-2’s items of income and loss to Utah, except for TAXPAYER-2’s shares of taxable Social Security income which the Division calculated to be \$\$\$\$\$ in 2012, \$\$\$\$\$ in 2013, and \$\$\$\$\$ in 2014. TAXPAYER-2 had gross social security income of \$\$\$\$\$ in 2012, \$\$\$\$\$ in 2013, and \$\$\$\$\$ in 2014<sup>2</sup>.

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<sup>1</sup> Interest continues to accrue on any unpaid balance.

<sup>2</sup> The parties provided a joint stipulation of facts, which provided the 2012, 2013, and 2014 income described in this paragraph but did not make any statement regarding 2015 income.

9. The Auditing Division of the Utah State Tax Commission (“Auditing Division”) issued audits changing both Petitioners to full-year Utah residents.

10. The parties agree, and the Commission finds, that TAXPAYER-2 was domiciled in and a resident of Utah for the entirety of the audit period.

11. For several years, including during the audit period, TAXPAYER-1 and TAXPAYER-2 have jointly owned property at ADDRESS-1 in CITY-1, STATE-1 and at ADDRESS-2 in CITY-2 Utah. Petitioners claimed the residential exemption on the CITY-2 Utah property each year of the audit period. TAXPAYER-1 primarily occupied the property in CITY-1, STATE-1 and TAXPAYER-2 primarily occupied the property in CITY-2 Utah.

12. The CITY-1, STATE-1 home is approximately 1,365 square feet sitting on a .14 acre lot. The CITY-2 Utah home is approximately 1,569 square feet (plus a partially finished basement of the same size) sitting on a .39 acre lot.

13. Petitioners did not have any dependent children during the audit period. Neither TAXPAYER-1 nor TAXPAYER-2 was enrolled in a Utah institution of higher education during the audit period.

14. TAXPAYER-1 was registered to vote in STATE-1 during the audit period. TAXPAYER-2 was registered to vote in Utah during the audit period.

15. During the audit period TAXPAYER-1 maintained a STATE-1 driver license and TAXPAYER-2 maintained a Utah driver license.

16. During the audit period, TAXPAYER-2 registered three vehicles in Utah – VEHICLE-1, VEHICLE-2, and VEHICLE-3. For both the VEHICLE-1 and the VEHICLE-2, TAXPAYER-2 is the primary owner and TAXPAYER-1 is the secondary owner. TAXPAYER-2 is the sole owner of the VEHICLE-3.

17. During the audit period TAXPAYER-1 had one vehicle registered in the State of STATE-1, VEHICLE-4. TAXPAYER-2 is the secondary owner of this vehicle.

18. During the audit period TAXPAYER-1 maintained a STATE-1 insurance policy for the VEHICLE-4 through INSURANCE COMPANY-1.

19. During the audit period TAXPAYER-1 paid tithing to a church in CITY-1, STATE-1.

20. During the audit period TAXPAYER-1 used the CITY-1, STATE-1 address as his mailing address.

21. During the audit period Petitioners used a Utah certified public accountant. During the audit period TAXPAYER-1 only saw medical providers in STATE-1.

22. Before the audit period, on April 16, 2011, TAXPAYER-1 executed estate planning documents in COUNTY-1, STATE-1 before a notary public.

23. TAXPAYER-1's wages during the audit period were all earned from his full-time employment from services performed in CITY-1, STATE-1 as follows:

- a. 2012: COMPANY-1- \$\$\$\$\$.
- b. 2013: COMPANY-1- \$\$\$\$\$.
- c. 2014: COMPANY-2- \$\$\$\$\$.
- d. 2015: COMPANY-2- \$\$\$\$\$.
- e. 2015: COMPANY-3- \$\$\$\$\$.

24. TAXPAYER-1's wages above, along with all of his social security income, retirement income, dividend income and interest income, were all reported on the Utah TC-40B as "nonresident" income earned in the State of STATE-1. In 2012 through 2014, TAXPAYER-2's share of the social security income was also reported on the TC-40B as "nonresident" income earned in the State of STATE-1.

25. The issue in this appeal is whether TAXPAYER-1 was a "resident individual" in Utah for the purposes of Utah Code Ann. §59-10-103 during the audit year.

26. The parties agree that TAXPAYER-1 did not spend in the aggregate more than 183 days per year in Utah during the period in question.

27. A resident individual, in the alternative, is one who is "domiciled" in the State of Utah. The parties focused on the issue of domicile at the hearing.

APPLICABLE LAW

A tax is imposed on the state taxable income of every resident individual for each taxable year. Utah Code Ann. §59-10-104(1).

Utah Code Ann. §59-10-103(1)(q) defines "resident individual" as follows:

- (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.
- (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and for purposes of Subsection (1)(q)(i)(B), the commission shall by rule define what constitutes spending a day of the taxable year in the state.

Utah Code Ann. §59-10-136 provides guidance concerning the determination of "domicile," 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:

- (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. §59-2-103.5 sets forth required actions when a taxpayer no longer qualifies for a primary residential exemption for Utah real property under Utah Code Ann. §59-2-103, as follows in pertinent part:

- (4) Except as provided in Subsection (5), if a property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence, the property owner shall:

- (a) file a written statement with the county board of equalization of the county in which the property is located:
  - (i) on a form provided by the county board of equalization; and
  - (ii) notifying the county board of equalization that the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence; and
- (b) declare on the property owner's individual income tax return under Chapter 10, Individual Income Tax Act, for the taxable year for which the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence, that the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence.
- (5) A property owner is not required to file a written statement or make the declaration described in Subsection (4) if the property owner:
  - (a) changes primary residences;
  - (b) qualified to receive a residential exemption authorized under Section 59-2-103 for the residence that was the property owner's former primary residence; and
  - (c) qualifies to receive a residential exemption authorized under Section 59-2-103 for the residence that is the property owner's current primary residence.

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

#### CONCLUSIONS OF LAW

The Commission considers the evidence in this case under Utah Code Ann. §59-10-136 beginning with Utah Code Ann. §59-10-136(5). The Taxpayers were a married couple filing joint federal returns for the audit period. The Taxpayers were not legally separated or divorced during the audit period. For purposes of Utah Code Ann. §59-10-136, each of the Taxpayers is thus a spouse of the other. If one of the Taxpayers is considered to have Utah domicile under the provisions of Utah Code Ann. §59-10-136, the individual's spouse is also considered to have Utah domicile.

The Commission next considers Utah Code Ann. §59-10-136(1), which deals with attendance at Utah schools. The test under Utah Code Ann. §59-10-136(1) is not applicable because the Taxpayers had no dependents attending Utah schools and the Taxpayers themselves were not students at a Utah institution of higher education.

Utah Code Ann. §59-10-136(2)(a) creates a rebuttable presumption of Utah domicile for an individual if “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 Taxpayers claimed a primary residential exemption for their home in CITY-2 Utah for the audit period and do not dispute that the CITY-2 Utah home was TAXPAYER-2’s primary residence. This creates a presumption under Utah Code Ann. §59-10-136(2)(a) of Utah domicile for the audit period. This presumption applies to both Taxpayers. Thus, under Utah Code Ann. §59-10-136(2)(a), the Taxpayers are presumed to have Utah domicile for the years of the audit period.

Utah Code Ann. §59-10-136(2)(b) creates a rebuttable presumption of Utah domicile for an individual if “the individual or the individual's spouse is registered to vote in this state in accordance with Title 20A, Chapter 2, Voter Registration.” TAXPAYER-2 was registered to vote in Utah for the audit period. This creates a presumption under Utah Code Ann. §59-10-136(2)(b) that she had Utah domicile for the audit period. This presumption applies to both spouses because the statute states the presumption arises if “the individual or the individual's spouse is registered to vote in this state in accordance with Title 20A, Chapter 2, Voter Registration.” Thus, under Utah Code Ann. §59-10-136(2)(b), the Taxpayers are presumed to have Utah domicile for the years of the audit period.

Utah Code Ann. §59-10-136(2)(c) creates a presumption of Utah domicile if an “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.” This Subsection (2)(c) does not arise for either Taxpayer. During the audit period, the Taxpayers filed joint nonresident Utah individual income tax returns.

Utah Code Ann. §59-10-136(3) sets forth a list of twelve “facts and circumstances” to determine Utah domicile. However, the twelve “facts and circumstances” listed in Utah Code Ann. §59-10-136(3)

do not apply in this case. Utah Code Ann. §59-10-136(3) is applicable only “if the requirements of Subsection (1) or (2) are not met.” As indicated above, this is a case in which the Taxpayers met the requirements of Subsections (2)(a) and (2)(b) of Utah Code Ann. §59-10-136. Thus, the facts and circumstances of Subsection (3) have no applicability in this case.

Utah Code Ann. §59-10-136(4) provides certain exceptions from the requirements of Subsections (1) through (3) if “the individual and the individual's spouse are absent from the state for at least 761 consecutive days.” This exception does not apply to the Taxpayers because of the requirement in Utah Code Ann. §59-10-136(4) that an individual “and the individual's spouse” must be absent from Utah for at least 761 consecutive days.

Utah Code Ann. §59-10-136(6) deals with exceptions from domicile for those claiming a primary residential exemption for Utah real property occupied by a tenant. It does not apply in this case because the Taxpayers did not rent their property in Utah to a tenant.

The Commission considers whether the Taxpayers have rebutted the presumptions of Utah domicile created by Utah Code Ann. §59-10-136(2)(a). The Taxpayers do not dispute that they claimed the Utah primary residential exemption for the Taxpayers’ residence. The Commission has previously found that the Subsection 59-10-136(2)(a) presumption can be rebutted if an individual has asked a county to remove the residential exemption, and the county failed to implement the individual’s request. There is no indication for the audit period that the Taxpayers’ local county failed to remove the residential exemption from the Taxpayers’ CITY-2 Utah home after receiving a request from the Taxpayers to do so. The Commission has also previously found that the Subsection 59-10-136(2)(a) presumption can be rebutted if an individual received the residential exemption for a vacant home that was listed for sale and which would qualify for the exemption upon being sold.<sup>3</sup> There is no evidence that the Taxpayers listed

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<sup>3</sup> The Commission has found that listing a vacant Utah home for sale may be sufficient to rebut the Subsection 59-10-136(2)(a) presumption, in part, because Utah Admin. Rule R884-24P-52(6)(f) (“Rule 52”) provides that “[i]f the county assessor determines that an unoccupied property will qualify as a primary residence when it is occupied, the

their Utah home for sale during the audit period and thus no basis to rebut the presumption of Utah domicile created under Utah Code Ann. §59-10-136(2)(a).

The Commission considers whether the Taxpayers have rebutted the presumption of Utah domicile created by Utah Code Ann. §59-10-136(2)(b). The Taxpayers do not dispute that TAXPAYER-2 was registered to vote in Utah for the audit period. There is no indication for the audit period that TAXPAYER-2 registered to vote in a state other than Utah. There is no indication that TAXPAYER-2 made a request of any county in Utah to remove her from Utah voting rolls. There is no evidence that any county in Utah failed to remove TAXPAYER-2 from Utah voting rolls when it should have. There is thus no basis to rebut the presumption of Utah domicile created under Utah Code Ann. §59-10-136(2)(b).

The Taxpayers sought to rebut the presumptions of Utah Code Ann. §59-10-136(2)(a) and (2)(b) by relying on the “facts and circumstances” of Utah Code Ann. §59-10-136(3). However, as previously noted, Utah Code Ann. §59-10-136(3) is applicable only “if the requirements of Subsection (1) or (2) are not met.” This is a case in which the Taxpayers met the requirements of Subsections (2)(a) and (2)(b) of Utah Code Ann. §59-10-136. Because the facts and circumstances of Utah Code Ann. §59-10-136(3) have no applicability to this case, they cannot rebut the presumptions of domicile under Utah Code Ann. §59-10-136(2)(a) and (2)(b). To find otherwise would render meaningless the language creating a presumption of domicile in Utah Code Ann. §59-10-136(2)(a) and (2)(b). It would also render meaningless the language in Utah Code Ann. §59-10-136(3) providing that the requirements of Utah Code Ann. §59-10-136(3) apply “if the requirements of Subsection (1) or (2) are not met.”

Based on these factors, the Taxpayers did not rebut the presumptions of domicile created under Utah Code Ann. §59-10-136(2)(a) and (2)(b). The facts, taken as a whole, provide basis to sustain the Division’s audit as to Utah individual income tax, together with interest on that tax, for the audit period.

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property shall qualify for the residential exemption while unoccupied.” While Rule 52 is no longer the controlling law for purposes of determining income tax domicile, there may be limited portions of Rule 52 that may be useful when the Commission delineates which circumstances are sufficient or insufficient to rebut a Subsection 59-10-136(2) presumption.

As a separate issue, the Commission notes that interest on tax amounts found due under this decision has been accruing from the September 6, 2017 date of the Formal Hearing through the date of issuance of this decision. This time delay is not the fault of the Taxpayers. Accordingly, there is good cause to waive interest from September 7, 2017 through a date 30 days following the issuance of this Order.

Clinton Jensen  
Administrative Law Judge

DECISION AND ORDER

Based on the information presented at the hearing, the Commission finds that the Taxpayers were domiciled in Utah for the audit period and were therefore a full-year residents of Utah for tax purposes during the audit period. The Commission sustains the Division's audits for income tax and interest except that the Commission waives interest from September 7, 2017 through a date 30 days following the issuance of this Order. It is so ordered.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2019.

John L. Valentine  
Commission Chair

Michael J. Cragun  
Commissioner

Rebecca L. Rockwell  
Commissioner

Lawrence C. Walters  
Commissioner

Notice of Appeal Rights: You have twenty (20) days after the date of this order to file a Request for Reconsideration with the Tax Commission Appeals Unit in accordance with Utah Code Ann. §63G-4-302. A Request for Reconsideration must allege newly discovered evidence or a mistake of law or fact. If you do not file a Request for Reconsideration with the Commission, this order constitutes final agency action. You have thirty (30) days after the date of this order to pursue judicial review of this order in accordance with Utah Code Ann. §§59-1-601 and 63G-4-401 et. seq.