

18-300  
TAX TYPE: INCOME TAX  
TAX YEAR: 2014  
DATE SIGNED: 12/14/2018  
COMMISSIONERS: J. VALENTINE, M. CRAGUN, R. ROCKWELL, L. WALTERS  
GUIDING DECISION

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BEFORE THE UTAH STATE TAX COMMISSION

TAXPAYERS,  Petitioners,  v.  AUDITING DIVISION OF THE UTAH STATE TAX COMMISSION,  Respondent.	<b>INITIAL HEARING ORDER</b>  Appeal No.    18-300  Account No.   ##### Tax Type:     Income Tax Year:     2014  Judge:        Chapman
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**Presiding:**

Kerry R. Chapman, Administrative Law Judge

**Appearances:**

For Petitioner:    TAXPAYER-1, Taxpayer (by telephone)  
For Respondent:    REPRESENTATIVE FOR RESPONDENT, from Auditing Division

STATEMENT OF THE CASE

This matter came before the Utah State Tax Commission for an Initial Hearing pursuant to the provisions of Utah Code Ann. §59-1-502.5, on October 29, 2018.

TAXPAYERS (“Petitioners” or “taxpayers”) are appealing Auditing Division’s (the “Division”) assessment of additional individual income taxes for the 2014 tax year. On January 16, 2018, the Division issued a Notice of Deficiency and Audit Change (“Statutory Notice”) to the taxpayers, in which it imposed additional taxes and interest (calculated as of February 15, 2018),<sup>1</sup> as follows:

<u>Year</u>	<u>Tax</u>	<u>Penalties</u>	<u>Interest</u>	<u>Total</u>
2014	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$	\$\$\$\$\$

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<sup>1</sup> Interest continues to accrue until any tax liability is paid. No penalties were imposed.

The taxpayers are a married couple who filed a 2014 federal income tax return with a status of married filing jointly. While TAXPAYER-2 lived in Utah for all of 2014, TAXPAYER-1 only lived in Utah from mid-August 2014 to December 31, 2014. For the January 1, 2014 to mid-August 2014 portion of 2014, TAXPAYER-1 lived in STATE-1.

For 2014, the taxpayers filed state income tax returns with both Utah and STATE-1. The taxpayers filed a joint 2014 STATE-1 part-year resident return on which they reported a part-year STATE-1 residency from January 1, 2014 to August 1, 2014, and on which they allocated to STATE-1 only that income that TAXPAYER-1 earned in STATE-1 from January 1, 2014 to August 1, 2014. The taxpayers explained that they filed their STATE-1 return in this manner to show that TAXPAYER-1 was a resident of STATE-1 from January 1, 2014 to August 1, 2014, and that TAXPAYER-2 was not a STATE-1 resident for any portion of 2014.<sup>2</sup>

In addition, the taxpayers filed a joint 2014 Utah part-year resident return on which they reported a Utah part-year residency from August 1, 2014 to December 31, 2014, and on which they allocated to Utah the income that TAXPAYER-2 earned in Utah during all of 2014 and the income that TAXPAYER-1 earned in Utah from mid-November 2014 to December 31, 2014.<sup>3</sup> The taxpayers explained that they filed their Utah return in this manner to show that TAXPAYER-2 was a Utah resident individual for all of 2014 and that TAXPAYER-1 was not a Utah resident individual during the January 1, 2014 to August 1, 2014 period that he worked in STATE-1.

The Division, however, has determined that *both* taxpayers were domiciled in Utah for all of 2014 and, thus, that both of the taxpayers were Utah resident individuals for all of 2014. As a result, the Division changed the taxpayers' 2014 Utah part-year resident return to a Utah full-year resident return and subjected all

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2 The STATE-1 return, like the Utah return, does not have separate spaces for each married individual to report his or her residency status.

3 TAXPAYER-1 proffered that he did not work anywhere between August 1, 2014 (when his employment in STATE-1 ended) and mid-November 2014 (when he was able to obtain employment in Utah).

of the taxpayers' 2014 income to Utah taxation (including the income that TAXPAYER-1 earned while he was living and working in STATE-1).<sup>4</sup> For these reasons, the Division asks the Commission to sustain its assessment in its entirety.

The taxpayers now contend that TAXPAYER-1 was not domiciled in Utah and was not a Utah resident individual until he moved to Utah in mid-August 2014. As a result, the taxpayers ask the Commission to find that they properly allocated their income to Utah and STATE-1 on their 2014 Utah part-year resident return and to reverse the Division's assessment in its entirety. In addition, the taxpayers indicate that their primary goal is to have the Commission address Utah's relatively new domicile law that became effective for tax year 2012 and to prevent this law from affecting other families in the way it has affected their family. The taxpayers proffer that Utah's current domicile law is contrary to nationwide domicile law and unfairly finds individuals who are domiciled in a state other than Utah to also be domiciled in Utah. TAXPAYER-1 stated that he has spoken to a tax attorney, a CPA, and his Utah state representative and that all of these persons have told him that they were unaware that Utah's current domicile law could lead to an individual who was domiciled in another state also being domiciled in Utah.

APPLICABLE LAW

1. Under Utah Code Ann. §59-10-104(1) (2014)<sup>5</sup>, “a tax is imposed on the state taxable income of a resident individual[.]”

2. For purposes of Utah income taxation, a “resident individual” is defined in UCA §59-10-103(1)(q)(i), as follows in pertinent part:

(i) “Resident individual” means:

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4 The Division did allow a credit of \$\$\$\$ against the taxpayers' Utah tax liability for 2014 income taxes that the taxpayers paid to STATE-1. A Utah resident is entitled to claim a credit against his or her Utah tax liability for income taxes paid to another state, pursuant to Utah Code Ann. §59-10-1003 (2014).

5 All substantive law citations are to the 2014 version of Utah law, unless otherwise noted.

- (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.

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3. Effective for tax year 2012 (and applicable to the 2014 tax year at issue), UCA §59-10-136

provides for 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.

4. For the instant matter, UCA §59-1-1417(1) (2018) provides guidance concerning which party

has the burden of proof, 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

Pursuant to Subsection 59-1-1417(1), the taxpayers have the burden of proof in this matter. The parties agree that TAXPAYER-2 was a Utah resident individual for all of 2014. As to TAXPAYER-1, however, the Division contends that he was a Utah resident individual for all of 2014, while the taxpayers contend that he was a Utah resident individual only after he moved to Utah in mid-August 2014. For 2014, Subsection 59-10-103(1)(q)(i) provides that a person is a Utah resident individual under either of two scenarios: 1) if the person is domiciled in Utah (the “domicile test”); or 2) if the person maintains a place of abode in Utah and spends 183 or more days of the taxable year in Utah (the “183 day test”).

The Division does not argue that TAXPAYER-1 is a Utah resident individual for all of 2014 under the 183 day test. Instead, the Division contends that TAXPAYER-1 is a Utah resident individual for all of 2014 under the domicile test. As a result, the Commission must apply the facts to the Utah domicile law in effect for

the 2014 tax year to determine whether both taxpayers are considered to be domiciled in Utah for all of 2014 (as the Division contends); or whether TAXPAYER-2 is considered to be domiciled in Utah for all of 2014 and TAXPAYER-1 is considered to be domiciled in Utah only from mid-August 2014 to December 31, 2014 (as the taxpayers contend).

**I. Additional Facts.**

The taxpayers married in 1989 and have not since been legally separated or divorced. The taxpayers have one grown child who lived in STATE-2 during the 2014 tax year. The taxpayers did not claim any dependents on their 2014 federal return, and neither taxpayer attended an institution of higher education during 2014.

The taxpayers moved to STATE-1 in 1990, where they both lived until sometime in 2009, when TAXPAYER-2 moved to Utah to attend a Utah institution of higher education for post-graduate work for about 1½ years. During this 1½-year period that TAXPAYER-2 was in Utah, TAXPAYER-1 continued to live and work in STATE-1. In 2010 or 2011, after completing her post-graduate work, TAXPAYER-2 returned to STATE-1. Subsequently, TAXPAYER-2 could not find employment in her field in STATE-1, which led to her accepting Utah employment and moving back to Utah in May 2012. TAXPAYER-1 continued to live and work in STATE-1 until mid-August 2014, when he decided to join his wife in Utah. Both taxpayers have lived in Utah from mid-August 2014 to the date of the hearing. The taxpayers hope to move back to STATE-1 at some point in the future, but have not decided when this might occur.

The taxpayers purchased a home in STATE-1 in both of their names in the early 1990's, which they still own. Since TAXPAYER-2 moved to Utah in May 2012, neither of the taxpayers has purchased or leased a home in Utah. From May 2012 to the present, TAXPAYER-2 has lived with her sister-in-law in a Utah home that the sister-in-law owns. Furthermore, once TAXPAYER-1 moved to Utah in mid-August 2014, both taxpayers have lived with TAXPAYER-2's sister-in-law in the sister-in-law's Utah home. The taxpayers have

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not leased their STATE-1 home to tenants at any time since TAXPAYER-1 moved to Utah in mid-August 2014. Instead, the taxpayers have kept their furniture at their STATE-1 home and stay in the STATE-1 home whenever they visit that state.

During the May 2012 to mid-August 2014 period that TAXPAYER-2 was living in Utah and TAXPAYER-1 was living in STATE-1, the taxpayers would occasionally visit one another. During this period, TAXPAYER-1 came to Utah once in 2013 for approximately three days, while TAXPAYER-2 visited STATE-1 a “couple of times” for “up to a week” on each visit.

TAXPAYER-2 has never been registered to vote in Utah. In addition, TAXPAYER-1 did not register to vote in Utah until 2015, when he first obtained a Utah driver’s license. TAXPAYER-2 obtained a Utah driver’s license prior to the 2014 tax year and retained it throughout 2014. Throughout the 2014 tax year, TAXPAYER-2 had a motor vehicle in Utah that was registered in Utah and that was owned by both taxpayers. In addition, the taxpayers both owned a second motor vehicle that was registered and kept in STATE-1 during all of 2014. When TAXPAYER-1 moved to Utah in mid-August 2014, the taxpayers kept this motor vehicle at their STATE-1 home to use whenever they visited that state.

Throughout 2014, TAXPAYER-2 attended and had her church records kept at a Utah unit of her church. TAXPAYER-1 attended a STATE-1 unit of his church from January 1, 2014 to mid-August 2014 and a Utah unit of his church from mid-August 2014 to December 31, 2014. In late 2014, TAXPAYER-1’s church records were moved from a unit of his church in STATE-1 to one in Utah. Neither of the taxpayers were members of a club or other similar organization during the 2014 tax year.

On the taxpayers’ 2013 federal and state tax returns (which the taxpayers filed in early 2014 when TAXPAYER-1 was living in STATE-1 and TAXPAYER-2 was living in Utah), the taxpayers used a STATE-1 address. On the taxpayers’ 2014 federal and state tax returns (which the taxpayers filed in early 2015 when both taxpayers were living in Utah), the taxpayers used a Utah address.

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At the hearing, TAXPAYER-1 stated that both he and his wife received their mail in STATE-1 throughout the 2014 tax year (which would include the mid-August 2014 to December 31, 2014 period that both taxpayers lived in Utah). In contrast, on the “Domicile Survey” that the taxpayers filled out and submitted to the Division on or around January 5, 2018, both taxpayers certified on question #13 of the survey that: 1) TAXPAYER-2 received her mail at a CITY-1, Utah address from “5/2012 – present[;]” and 2) TAXPAYER-1 received his mail at a CITY-2, STATE-1 address from “8/1991 – present” and at a CITY-1, Utah address from “Sept. 2014 – present.”

The taxpayers, who have the burden of proof in this matter, did not proffer evidence of any document that was sent to TAXPAYER-2 at a STATE-1 address during the 2014 tax year. The Division, on the other hand, proffered that a 2013 Form W-2 was sent to TAXPAYER-2 in early 2014 at a Utah address. Based on the evidence proffered at the Initial Hearing, the Commission finds the statements that the taxpayers certified on their Domicile Survey to be more convincing than the statements made at the hearing. Accordingly, the Commission finds that: 1) TAXPAYER-2 received her mail at a Utah address throughout the 2014 tax year; 2) TAXPAYER-1 received his mail at a STATE-1 address from January 1, 2014 to August 31, 2014; and 3) TAXPAYER-1 received his mail at both a STATE-1 address and a Utah address from September 1, 2014 to December 31, 2014.

## **II. Domicile Test for the 2014 Tax Year.**

UCA §59-10-103(1)(q)(i)(A) defines a “resident individual” as “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[.]” For 2014, a taxpayer’s domicile for income tax purposes is determined under Section 59-10-136, which contains four subsections addressing when a taxpayer is considered to have

domicile in Utah (Subsections (1), (2), (3), and (5)) and a fifth subsection addressing when a taxpayer is not considered to have domicile in Utah (Subsection (4)).<sup>6</sup>

A. Section 59-10-136(5)(b). For a married individual, it is often necessary, as in this case, to determine whether that individual is considered to have a “spouse” for purposes of Section 59-10-136. Subsection 59-10-136(5)(b) provides that a married individual is *not* considered to have a spouse for purposes of Section 59-10-136 if the individual is legally separated or divorced from the individual’s spouse or if the individual and the individual’s spouse file a federal income tax return with a status of married filing separately. Neither of these circumstances applies to the taxpayers for any portion of 2014 because the taxpayers were not legally separated or divorced and because they filed a joint federal return for this year. Accordingly, for the 2014 tax year at issue, each taxpayer is considered to have a spouse for purposes of Section 59-10-136.

B. Subsection 59-10-136(4). The taxpayers do not argue that they are *not* considered to be Utah domiciliaries for any portion of the 2014 tax year under Subsection 59-10-136(4). This subsection applies to an individual if the individual and the individual’s spouse are both “absent from the state” for at least 761 consecutive days, if a number of listed conditions are all met. While TAXPAYER-1 may have been absent from Utah for a 761-day or more period that included the January 1, 2014 to mid-August 2014 period, TAXPAYER-2 was not absent from Utah for this period. TAXPAYER-2 lived and worked in Utah during all of 2014, including the January 1, 2014 to mid-August 2014 period before TAXPAYER-1 moved to Utah. Accordingly, the Subsection 59-10-136(4) exception is not applicable to either taxpayer for any portion of 2014 (including the January 1, 2014 to mid-August 2014 period before TAXPAYER-1 moved to Utah), regardless of whether the taxpayers met the other listed conditions.

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<sup>6</sup> Prior to tax year 2012, an individual’s income tax domicile was determined under Utah Admin. Rule R865-9I-2 (2011) (“Rule 2”), which provided, in part, criteria to be used when determining an individual’s income tax domicile and which referred to a non-exhaustive list of domicile factors in Utah Admin. Rule R884-24P-52 (2011) (“Rule 52”) (which is a property tax rule). After the Legislature enacted new criteria in Section 59-10-136 to determine income tax domicile for the 2012 tax year, Rule 2 was amended to remove any reference to domicile and to the Rule 52 factors.

Accordingly, the Commission must analyze whether the taxpayers *are* considered to have domicile in Utah during 2014 under one or more of the remaining subsections of Section 59-10-136 (i.e., under Subsections 59-10-136(1), (2)(a), (2)(b), (2)(c), and (3)). If an individual meets the criteria found in *any one* of these subsections, that individual is considered to be domiciled in Utah, even if the individual does not meet the criteria found in any of the other subsections.

It is clear that the taxpayers are not considered to be domiciled in Utah during 2014 under Subsection 59-10-136(1) because the taxpayers did not claim any dependents on their 2014 federal return and because neither of the taxpayers attended a Utah institution of higher education during 2014. It is also clear that the taxpayers are not considered to be domiciled in Utah during 2014 under Subsection 59-10-136(2)(a) or 59-10-136(2)(b) because the taxpayers did not own a Utah residence on which they claimed the residential exemption during 2014 and because neither of them was registered to vote in Utah during 2014. Still at issue, however, is whether the taxpayers would be considered to be domiciled in Utah during 2014 under Subsection 59-10-136(2)(c) or 59-10-136(3).

C. Subsection 59-10-136(2)(c). This subsection provides that an individual is presumed to be domiciled in Utah if the individual or the individual's spouse asserts Utah residency on a Utah return, unless the presumption is rebutted. On their 2014 Utah part-year resident return, the taxpayers asserted a Utah residency from August 1, 2014 to December 31, 2014. As a result, under Subsection 59-10-136(2)(c), the taxpayers are presumed to be domiciled in Utah from August 1, 2014 to December 31, 2014, unless they are able to rebut the presumption.

Because Subsection 59-10-136(2)(c) involves a rebuttable presumption, the Legislature clearly intended not only for there to be circumstances where an individual whose actions give rise to this presumption *is* considered to have domicile in Utah, but also for there to be circumstances where an individual whose

actions give rise to this presumption *is not* considered to have domicile in Utah.<sup>7</sup> However, the Legislature has not provided in statute what circumstances will be or will not be sufficient to rebut the Subsection 59-10-136(2)(c) presumption. As a result, it is left to the Commission to delineate between those circumstances that are sufficient and not sufficient to rebut the presumption.

The Commission has previously found that a Subsection 59-10-136(2) presumption is not rebutted because an individual would not be considered to be domiciled in Utah under Rule 52, the property tax rule used to determine income tax domicile for tax years prior to 2012. It is arguable that using the “old” income tax domicile criteria found in the pre-2012 version of Rule 2 and/or in Rule 52 to determine an individual’s income tax domicile for years when Section 59-10-136 is in effect would be giving the new law enacted by the Legislature little or no effect, which the Commission declines to do.<sup>8</sup>

Similarly, the Commission has found that an individual cannot rebut a Subsection 59-10-136(2) presumption by showing that he or she would not be considered to have domicile in Utah under the 12 factors listed in Subsection 59-10-136(3)(b). If the Commission were to do so, one could argue that the Commission was giving no meaning to the Subsection 59-10-136(2) presumptions (i.e., that it was determining domicile as though the Subsection 59-10-136(2) presumptions did not exist).<sup>9</sup>

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7 The Legislature did not provide that claiming Utah residency on a Utah return is an “absolute” indication of domicile (as it did in Subsection 59-10-136(1) for an individual who is enrolled as a resident student in a Utah institution of higher education or, with certain exceptions, has a dependent enrolled in a Utah public kindergarten, elementary, or secondary school).

8 Again, the Commission is not precluded from considering certain facts that might be described in Rule 52 when determining whether a Subsection 59-10-136(2) presumption has been effectively rebutted. However, the Commission will not determine an individual’s income tax domicile for 2012 and subsequent tax years solely from the factors found in Rule 52.

9 This conclusion is further supported by the plain language of Subsection 59-10-136(3)(a), which provides that a person may be considered to be domiciled in Utah subject to Subsection 59-10-136(3)(b) “if the requirements of Subsection (1) or (2) are not met[.]” As a result, the provisions of Subsection 59-10-136(3)(b) only come into play if Subsection 59-10-136(1) or one of the presumptions of Subsection 59-10-136(2) does not apply.

In addition, married couples who are considered to be spouses for purposes of Section 59-10-136 may not separately rebut a Subsection 59-10-136(2) presumption for only one of the spouses. A Subsection 59-10-136(2) presumption is either rebutted for both taxpayers or for neither of them.<sup>10</sup> For the instant matter, the taxpayers have not shown why they should not be considered to be domiciled in Utah for the August 1, 2014 to December 31, 2014 period that they claimed to be Utah resident individuals on their 2014 return, especially where TAXPAYER-2 lived and worked in Utah for this entire period. Because the taxpayers have not rebutted the Section 59-10-136(2)(c) presumption that has arisen for both of them, they are both considered to be domiciled in Utah from August 1, 2014 to December 31, 2014 under this subsection.

Still at issue, however, is whether the taxpayers are considered to be domiciled in Utah for the remainder of 2014 under another subsection of Section 59-10-136. As a result, the Commission will analyze Subsection 59-10-136(3) (the last remaining subsection) to determine whether the taxpayers are considered to be domiciled in Utah for more than the August 1, 2014 to December 31, 2014 portion of 2014 for which they are considered to be domiciled in Utah under Subsection 59-10-136(2)(c).

D. Subsection 59-10-136(3). Subsection 59-10-136(3)(a) provides that an individual is considered to be domiciled in Utah if they have a permanent home in Utah to which they intend to return after being absent and if they have voluntarily fixed their habitation in Utah not for a special or temporary purpose, but with the intent of making a permanent home. Subsection 59-10-136(3)(b) provides that the Commission shall base its determination of whether a taxpayer is domiciled in Utah under Subsection 59-10-136(3)(a) on a preponderance of the evidence, taking into account the totality of 12 specific facts and circumstances.<sup>11</sup>

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<sup>10</sup> The presumption arises for *both* spouses because Subsection 59-10-136(2)(c) provides that the presumption arises if *the individual or the individual's spouse* asserts Utah residency on a Utah return. In addition, the conclusion that the presumption cannot be rebutted for only one of the two individuals who are considered to be spouses for purposes of Section 59-10-136 is supported by Subsection 59-10-136(5)(a), which provides that “[i]f 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.”

<sup>11</sup> Subsection 59-10-136(3)(b) does not indicate that the facts to be considered “include” the 12 listed facts and circumstances or use some other wording that would suggest that other facts and circumstances may

Accordingly, for purposes of determining whether the taxpayers are considered to be domiciled in Utah under Subsection 59-10-136(3) for the 2014 tax year, only the 12 facts and circumstances listed in Subsection 59-10-136(3)(b) will be considered.

On the 12 Subsection 59-10-136(3)(b) factors, four of them are not relevant to the taxpayers' circumstances during 2014, specifically Subsections 59-10-136(3)(b)(ii), (3)(b)(x), (3)(b)(xi), and (3)(b)(xii). As a result, these four factors will receive no weight in determining the taxpayers' domicile under Section 59-10-136(3). The other eight factors, however, are relevant to the taxpayers' circumstances and either: 1) indicate a domicile in Utah; 2) indicate a domicile in a jurisdiction other than Utah; or 3) are neutral (i.e., do not indicate whether domicile is in Utah or in a jurisdiction other than Utah). While the relevant factors that are neutral will receive little or no weight in determining the taxpayers' domicile under Subsection 59-10-136(3)(b), the factors that indicate a domicile in Utah or in a jurisdiction other than Utah will receive the majority of the weight in determining the taxpayers' domicile under this specific subsection. Following is an analysis of the eight relevant factors.

1) *Subsection 59-10-136(3)(b)(i)*. The first relevant factor is “whether the individual or the individual’s spouse has a driver license in this state[.]” TAXPAYER-1 did not have a driver’s license in this state (i.e., in Utah) during the 2014 tax year. TAXPAYER-1’s spouse, however, did have a driver’s license in this state during all of 2014. Because of the use of the word “or” in Subsection 59-10-136(3)(b)(i), an individual meets this factor if either the individual or the individual’s spouse has a Utah driver’s license. As a

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also be considered. The language clearly provides for the determination of domicile under Subsection 59-10-136(3) to be limited to the 12 facts and circumstances listed in Subsection 59-10-136(3)(b).

Furthermore, for purposes of determining an individual’s domicile under Subsection 59-10-136(3) based on a “preponderance of the evidence,” the Commission notes that in *T-Mobile USA, Inc. v. Utah State Tax Comm’n*, 2011 UT 28 (Utah 2011), the Utah Supreme Court indicated that “preponderance of the evidence” means “more likely than not” and as the “greater weight of the evidence” (*citing Harken Sw. Corp. v. Bd. Of Oil, Gas & Mining*, 920 P.2d 1176 (Utah 1996) and *Alvarado v. Tucker*, 2 Utah 2d 16, 268 P.2d 986 (Utah 1954)). As a result, the Commission will consider whether the greater weight of these 12 facts and circumstances supports a determination that the taxpayers were domiciled in Utah for all of 2014.

result, not only does TAXPAYER-2 meet this factor for all of 2014 because she had a Utah driver's license throughout 2014, but TAXPAYER-1 also meets this factor for all of 2014 because his spouse had a Utah driver's license throughout this year.<sup>12</sup> Accordingly, the Subsection 59-10-136(3)(b)(i) factor indicates that both taxpayers are domiciled in Utah for all of the 2014 tax year.

2) *Subsection 59-10-136(3)(b)(iii)*. The second relevant factor is “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[.]” Throughout the 2014 tax year, the taxpayers owned a home in STATE-1. Neither of the taxpayers, however, owned or leased a home in Utah during 2014. Although TAXPAYER-2 lived in Utah for all of 2014 and TAXPAYER-1 lived in Utah from mid-August 2014 to December 31, 2014, both of the taxpayers were living with TAXPAYER-2's sister-in-law in the sister-in-law's Utah home. Under these circumstances, the nature and quality of the taxpayers' living accommodations in STATE-1 are superior to the nature and quality of the taxpayers' living accommodations in Utah. Accordingly, the Subsection 59-10-136(3)(b)(iii) factor indicates that both taxpayers are domiciled in STATE-1 for all of the 2014 tax year.

3) *Subsection 59-10-136(3)(b)(iv)*. The third relevant factor is “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[.]” On the taxpayers' joint 2014 federal income tax return, the taxpayers claimed a personal exemption for both TAXPAYER-1 and TAXPAYER-2. TAXPAYER-1 was present “in this state” (i.e., Utah) only from mid-August 2014 to December 31, 2014. However, TAXPAYER-1's spouse was present “in this state” throughout the 2014 tax year. As a result, the Subsection 59-10-136(3)(b)(iv) factor indicates that both taxpayers are domiciled in Utah for all of the 2014 tax year.

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12 As mentioned earlier, such a conclusion is supported by Subsection 59-10-136(5)(a), which provides that “[i]f 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.”

4) *Subsection 59-10-136(3)(b)(v)*. The fourth relevant factor is “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[.]” Under IRC §32(c)(2)(A), “earned income” is defined to mean:

- (i) wages, salaries, tips, and other employee compensation, but only if such amounts are includible in gross income for the taxable year, plus
- (ii) the amount of the taxpayer’s net earnings from self-employment for the taxable year (within the meaning of section 1402(a)), but such net earnings shall be determined with regard to the deduction allowed to the taxpayer by section 164(f).

On their 2014 federal income tax return, the taxpayers included in their gross income “wages, salaries, tips, etc.” of \$79,499, which consisted of wages: 1) that TAXPAYER-2 earned in Utah during all of 2014; 2) that TAXPAYER-1 earned in STATE-1 from January 1, 2014 to August 1, 2014; and 3) that TAXPAYER-1 earned in Utah from mid-November 2014 to December 31, 2014.<sup>13</sup> As a result, all of these wages are considered “earned income” under IRC §32(c)(2).

Subsection 59-10-136(3)(b)(v) asks the Commission to determine the physical location of the individual’s or the individual’s spouse’s earned income, which may be in this state or outside of this state. For the January 1, 2014 to August 1, 2014 portion of 2014, the physical location of the earned income that the taxpayers earned was in both STATE-1 and Utah. As a result, for the January 1, 2014 to August 1, 2014 portion of 2014, the Subsection 59-10-136(3)(b)(v) factor is neutral and does not show whether the taxpayers’ domicile would be in Utah or in a jurisdiction other than Utah.<sup>14</sup>

On the other hand, for the August 2, 2014 to December 31, 2014 portion of 2014, the only physical location of the earned income that either of the taxpayers earned was in Utah. As a result, for the August 2, 2014 to December 31, 2014 portion of 2014, the Subsection 59-10-136(3)(b)(v) factor indicates that both taxpayers are domiciled in Utah.

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13 No evidence was proffered to suggest that the taxpayers had any net earnings from self-employment for the 2014 tax year.

14 Subsection 59-10-136(3)(b)(v) does not ask the Commission only to determine whether earned income was earned by the individual or the individual’s spouse “in this state.” If it had, a different conclusion might

5) *Subsection 59-10-136(3)(b)(vi)*. The fifth relevant factor is “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[.]” Utah Code Ann. §59-12-102(136)(a) (2014) defined “vehicle,” in part, to mean “the following that are required to be titled, registered, or titled and registered . . . (ii) a vehicle as defined in Section 41-1a-102[.]” Utah Code Ann. §41-1a-102(67) (2014) defined “vehicle” to include “a motor vehicle, trailer, semitrailer, off-highway vehicle, manufactured home, and mobile home[.]” while Subsection 41-1a-102(32)(a) defined “motor vehicle” to mean “a self-propelled vehicle intended primarily for use and operation on the highways[.]”<sup>15</sup>

During the 2014 tax year, the taxpayers owned two “motor vehicles,” as defined in Subsection 41-1a-102(32)(a). As a result, these two motor vehicles are “vehicles” for purposes of Subsection 41-1a-102(67), Subsection 59-12-102(136)(a), and Subsection 59-10-136(3)(b)(vi). During all of 2014, the state of registration for one of the taxpayers’ vehicles was Utah, and the state of registration for the taxpayers’ other vehicle was STATE-1. As a result, for all of 2014, the Subsection 59-10-136(3)(b)(vi) factor is also neutral and does not show whether the taxpayers’ domicile would be in Utah or in a jurisdiction other than Utah.<sup>16</sup>

6) *Subsection 59-10-136(3)(b)(vii)*. The sixth relevant factor is “whether the individual or the individual's spouse is a member of a church, a club, or another similar organization in this state[.]” During 2014, neither of the taxpayers was a member of any club or other similar organization. Both taxpayers, however, were members of a church during 2014. TAXPAYER-1 attended a STATE-1 unit of his church from January 1, 2014 to mid-August 2014 and a Utah unit of his church from mid-August 2014 to December 31, 2014. In addition, TAXPAYER-1’s church records were kept at a STATE-1 unit of his church from January 1, 2014 to late 2014, at which time his records were moved to a Utah unit of his church.

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have been reached for this factor for the January 1, 2014 to August 1, 2014 period.

15 Since 2014, these definitions of “vehicle” and “motor vehicle” have been renumbered and/or amended.

16 Subsection 59-10-136(3)(b)(vi) does not ask the Commission to determine only whether a vehicle owned or leased by the individual or the individual’s spouse is registered “in this state.” If it had, a different conclusion might have been reached for this factor for all of 2014.

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TAXPAYER-1's spouse, however, attended and had her church records kept at a unit of her church "in this state" (i.e., in Utah) during all of 2014. Because TAXPAYER-2 was a member of a church in this state during all of 2014, the Subsection 59-10-136(3)(b)(vii) factor indicates that both taxpayers are domiciled in Utah for all of the 2014 tax year.

7) *Subsection 59-10-136(3)(b)(viii)*. The seventh relevant factor is "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[.]" No evidence was proffered at the hearing to show the address that the taxpayers may have listed on a telephone listing, a listing in an official government publication, other correspondence, or another similar item during the 2014 tax year. Information, however, was proffered to show the addresses that the taxpayers used for their mail during the 2014 tax year.

For reasons explained earlier, the Commission has found that: 1) TAXPAYER-2 received her mail at a Utah address throughout the 2014 tax year; 2) TAXPAYER-1 received his mail at a STATE-1 address from January 1, 2014 to August 31, 2014; and 3) TAXPAYER-1 received his mail at both a STATE-1 address and a Utah address from September 1, 2014 to December 31, 2014. TAXPAYER-1 did not receive any of his mail at a Utah address from January 1, 2014 to September 1, 2014. The Commission has found, however, that TAXPAYER-1's spouse received her mail at an address "in this state" during all of 2014. As a result, the Subsection 59-10-136(3)(b)(viii) factor indicates that both taxpayers are domiciled in Utah during all of 2014.

8) *Subsection 59-10-136(3)(b)(ix)*. The eighth relevant factor is "whether the individual or the individual's spouse lists an address in this state on a state or federal tax return[.]" The taxpayers listed a STATE-1 address on all of the 2013 state and federal tax returns that they filed during the 2014 tax year at issue. As a result, the Subsection 59-10-136(3)(b)(ix) factor indicates that both taxpayers are domiciled in STATE-1 during all of 2014.<sup>17</sup>

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<sup>17</sup> Admittedly, the taxpayers listed a Utah address on all of the 2014 state and federal tax returns that they filed in early 2015. However, the address listed on a tax return filed during 2015 is more relevant to

*Summary of the Subsection 59-10-136(3)(b) Factors.* To decide whether the taxpayers are considered to be domiciled “in this state” for all or a portion of 2014 under Subsection 59-10-136(3), Subsection 59-10-136(3)(b) requires the Commission to determine whether a preponderance or greater weight of the evidence concerning 12 specific factors shows a Utah domicile. As previously mentioned, four of the Subsection 59-10-136(3)(b) factors are not relevant to either of the taxpayers’ circumstances for any portion of 2014. These four factors will receive no weight in the analysis.

For all of 2014, the remaining eight Subsection 59-10-136(3)(b) factors are relevant to the taxpayers’ circumstances. For the January 1, 2014 to August 1, 2014 portion of 2014, two of the eight relevant factors (the Subsection 59-10-136(3)(b)(v) and (3)(b)(vi) factors) are neutral and will receive no weight in the analysis for this portion of 2014. Of the six relevant, non-neutral factors, four of them show a Utah domicile for the January 1, 2014 to August 1, 2014 portion of 2014 (the Subsection 59-10-136(3)(b)(i), (3)(b)(iv), (3)(b)(vii), and (3)(b)(viii) factors), while two of them show a domicile in STATE-1 for this portion of 2014 (the Subsection 59-10-136(3)(b)(iii) and (3)(b)(ix) factors). As a result, a greater weight of the six relevant, non-neutral factors indicates that both taxpayers are domiciled in Utah for the January 1, 2014 to August 1, 2014 portion of 2014.

For the August 2, 2014 to December 31, 2014 portion of 2014, one of the eight relevant factors (the Subsection 59-10-136(3)(b)(vi) factor) is neutral and will receive no weight in the analysis. Of the seven relevant, non-neutral factors, five of them show a Utah domicile for this portion of 2014 (the Subsection 59-10-136(3)(b)(i), (3)(b)(iv), (3)(b)(v), (3)(b)(vii), and (3)(b)(viii) factors), while two of them show a domicile in STATE-1 for this portion of 2014 (the Subsection 59-10-136(3)(b)(iii) and (3)(b)(ix) factors). As a result, a greater weight of the seven relevant, non-neutral factors indicates that both taxpayers are domiciled in Utah for

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determining an individual’s domicile for the 2015 tax year, not the tax year for which the return was filed.

the August 2, 2014 to December 31, 2014 portion of 2014. In conclusion, under Subsection 59-10-136(3), both taxpayers are considered to be domiciled in Utah for all of the 2014 tax year.

E. Domicile – Summary. Based on the foregoing, both taxpayers are considered to be domiciled in Utah for all of the 2014 tax year. As a result, both of the taxpayers are considered to be Utah resident individuals for all of 2014, pursuant to Subsection 59-10-103(1)(q)(i)(A).

### **III. Taxpayers’ Other Arguments.**

Even if both taxpayers are considered to be domiciled in Utah for all of the 2014 tax year under Section 59-10-136, the taxpayers contend that such a result is unfair where TAXPAYER-1 lived and worked in STATE-1 for most of the 2014 tax year. They also contend that they have consulted with their CPA, a tax attorney, and their Utah state representative and that none of these persons are aware that an individual who lives and works outside of Utah could be considered to be domiciled in Utah because of the individual’s spouse’s circumstances.

Furthermore, TAXPAYER-1 expressed that he is interested in getting Utah’s current domicile law changed so that other taxpayers are not subjected to what he refers to as “double taxation.” TAXPAYER-1 contends that most states have domicile laws in place so that an individual only has one domicile and that Utah’s domicile law results in the possibility of an individual’s having domicile in more than one state. He contends that having domicile in more than one state impermissibly results in “double taxation.”

A. Taxation of Income Earned Outside of Utah. The taxpayers suggest that Utah should not tax the income that TAXPAYER-1 earned while he was living and working in STATE-1. Pursuant to Subsection 59-10-104(1) and Subsection 59-10-103(1)(w), however, all of a Utah resident individual’s federal adjusted gross income is subject to Utah income taxation, subject to certain subtractions and additions not applicable to this case. The Commission acknowledges that Utah Code Ann. §59-10-117(2)(c) provides that “a salary, wage, commission, or compensation for personal services rendered outside this state may not be considered to

be derived from Utah sources[.]” In accordance with Subsection 59-10-117(1) and Utah Code Ann. §59-10-116, however, Subsection 59-10-117(2)(c) only applies to a Utah nonresident individual. Because both taxpayers, including TAXPAYER-1, have been found to be Utah resident individuals for all of 2014, Subsection 59-10-117(2)(c) does not apply to either of them for any portion of 2014. Accordingly, all of the taxpayers’ 2014 income is subject to Utah taxation, including the income that TAXPAYER-1 received while he was living and working outside of Utah. Double taxation concerns are alleviated by the credit that Utah allows for income taxes paid to another state and that the Division allowed in its assessment of the taxpayers.<sup>18</sup>

B. Commission Notice of Section 59-10-136. The taxpayers indicate that they and several persons they have consulted were unaware that Utah’s relatively new domicile law could result in TAXPAYER-1’s being considered to be domiciled in Utah because of TAXPAYER-2’s actions. The Commission, however, gave taxpayers notice of the new law in the instructions of the 2012 Form TC-40 and in the instructions for each subsequent tax year’s Form TC-40.

Page 2 of the 2012 instructions contained a “What’s New” section, which provided as follows:

**Domicile Definition Changed.** Utah law defining domicile has changed. Consequently, Pub 49, *Special Instructions for Married Couples where one is a full-year resident and the other is a full-year nonresident no longer applies.* See page 3. (Emphasis in original).

In addition, pages 3 and 4 of the 2012 instructions contained the new Section 59-10-136 definition of domicile, and page 4 of the 2012 instructions specifically provided that:

If an individual is considered to have domicile in Utah, the spouse is also considered to have domicile in Utah. This rule does not apply if the couple are legally separated or divorced, or they file their federal returns as married filing separately.

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<sup>18</sup> The taxpayers suggest that the taxation of the same income by more than one state may be a new phenomenon caused by Utah’s enactment of Section 59-10-136. However, certain income has historically been taxed by more than one state, which is why most states, including Utah, have allowed a credit for income taxes paid to another state. For example, two states may tax the same income of an individual who is a resident of one state under a test similar to Utah’s 183 day test and who is a resident of a second state under a domicile test. Similarly, two states may tax the same income of an individual who is a resident of one state and who earned income in a second state of which he or she is a nonresident.

Similar information was also provided on pages 3 and 4 of the 2014 instructions.<sup>19</sup> Accordingly, the instructions for the 2014 Form TC-40 cautioned married couples that an individual whose spouse was domiciled in Utah would also be considered to be domiciled in Utah, unless they were legally separated or divorced or filed their federal returns as married filing separately.

C. Tax Policy. The taxpayers also contend that it would be unfair for the Commission to tax the 2014 income that TAXPAYER-1 received while he was living and working in STATE-1 and that Utah's new domicile law, if it results in this consequence, is "improper." The taxpayers may be suggesting Section 59-10-136, as written, results in bad tax policy in certain situations. However, while the Commission is tasked with the duty of implementing laws enacted by the Utah Legislature, the Commission is not authorized to amend these laws to achieve what the taxpayers may consider to be a better tax policy. That is the role of the Legislature.

#### **IV. Conclusion.**

Based on the foregoing, both taxpayers are considered to be domiciled in Utah for all of the 2014 tax year. As a result, both taxpayers are 2014 full-year Utah resident individuals. Accordingly, all of the income that both taxpayers received during 2014 is subject to Utah taxation (subject to a credit for income taxes paid to another state). In addition, the taxpayers' other arguments do not warrant an abatement of the Division's assessment. For these reasons, the Commission should sustain the Division's assessment in its entirety.

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Kerry R. Chapman  
Administrative Law Judge

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<sup>19</sup> Forms for previous years can be found on the Commission's website at <https://tax.utah.gov/forms-pubs/previousyears>.

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DECISION AND ORDER

Based on the foregoing, the Commission sustains the Division's assessment for the 2014 tax year in its entirety. 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 \_\_\_\_\_, 2018.

John L. Valentine  
Commission Chair

Michael J. Cragun  
Commissioner

Rebecca L. Rockwell  
Commissioner

Lawrence C. Walters  
Commissioner

**Notice:** If a Formal Hearing is not requested as discussed above, failure to pay the balance resulting from this order within thirty (30) days from the date of this order may result in a late payment penalty.