

EDWARD AND MAKOTO RAGLAND §
129 BLOOMINGTON AVE APT 510 §
BREMERTON, WA 98312, §

Taxpayers, §

v. §

STATE OF ALABAMA §
DEPARTMENT OF REVENUE.

STATE OF ALABAMA
ALABAMA TAX TRIBUNAL

DOCKET NO. INC. 15-972

FINAL ORDER

The Revenue Department assessed Edward and Makoto Ragland (together “Taxpayers”) for 2010, 2011, and 2012 Alabama income tax. The Taxpayers appealed to the Tax Tribunal pursuant to Code of Ala. 1975, §40-2A-7(b)(5)a. A hearing was conducted on February 25, 2016. Edward Ragland (individually “Taxpayer”) attended the hearing. Assistant Counsel Billy Young represented the Revenue Department.

The issue in this case is whether the Taxpayer was domiciled in Alabama in the subject years, and thus liable for Alabama income tax on his income in those years.

The Taxpayer was born in Alabama, and lived in Alabama until he joined the U.S. Navy at age 20 in 2001. He met his wife, Makoto, while stationed in Japan. The couple married in 2003.

The Taxpayer left the military in 2009. He was stationed in Japan at the time. He returned to the United States for a short visit, but then returned to Japan to live. The couple rented an apartment in Yokosuka, Japan, where the Taxpayer worked as a contractor. The Taxpayer received a pay raise, and the couple consequently upgraded their living quarters by leasing a house in 2012. The Taxpayers’ son was born in Japan in 2013.

The Taxpayer was unexpectedly offered a job in the State of Washington in 2014. The job in Washington paid considerably more than the Taxpayer's job in Japan. He consequently accepted the offer, and he and his wife and child moved to Washington in 2014.

The Taxpayer filed a part-year resident Alabama return for 2009, and full-year resident returns for 2010, 2011, and 2012. The Taxpayer explained that he filed the returns on the advice of a coworker in Japan. He now contends that he was not required to and should not have filed the returns. He also argues that he was not domiciled in Alabama in the above years because he owned no property in Alabama, was not registered to vote and did not have a bank account in Alabama, and otherwise had no contacts with Alabama during the subject years. He also contends that he settled in Japan in 2009 with the intent of living there permanently.

The Department contended in its Answer that the Taxpayer was still domiciled in Alabama during the years in issue because he was still a U.S. Citizen in those years – “A taxpayer while working in a foreign country is still a resident of a state in the United States unless the taxpayer has abandoned his U.S. citizenship. The Taxpayer has not asserted that nor has he presented any documentation that asserts that he abandoned his U.S. citizenship, . . .” Department’s Answer at 2, 3.

Alabama income tax is levied on individuals residing in Alabama, Code of Ala. 1975, §40-18-2(1), and also on individuals residing and earning income outside of Alabama that are still domiciled in Alabama. Code of Ala. 1975, §40-18-2(7). A persons’ domicile is his true, fixed home to which he intends to return when absent. *Whetstone v. State*, 434 So.2d 796 (Ala. 1983). In order to change domiciles from Alabama, a taxpayer must

abandon Alabama, and also establish a new domicile elsewhere with the intent to remain permanently, or at least indefinitely. The burden is on a taxpayer asserting a change of domicile to prove that a change of domicile has occurred. The presumption is in favor of the original or former domicile, as against a newly acquired one. See generally, *Cobb v. State, Inc.* 96-272 (Admin. Law Div. 2/24/97).

The Taxpayer was domiciled in Alabama when he joined the Navy in 2001. He consequently remained domiciled in Alabama and correctly filed Alabama returns while he was in the Navy.

The Taxpayer clearly abandoned Alabama as his domicile after he left the Navy and moved to Japan in 2009 because he thereafter had no ties with Alabama other than family. The Tax Tribunal has held on numerous occasions that the fact that a person has family in Alabama has little or no bearing on whether the person is domiciled in Alabama. *Hinton v. State of Alabama*, Docket Inc. 14-1067 (T.T. 1/27/2016); *Killingsworth v. State of Alabama*, Docket Inc. 14-804 (T.T. 1/9/2015). Consequently, because the Taxpayer abandoned Alabama as his home and established a new, permanent domicile in Japan in 2009, he effectively changed his domicile to Japan in 2009.

The fact that the Taxpayer did not renounce his U.S. citizenship also has no bearing on the issue of the Taxpayer's domicile. That is, a person can be a U.S. citizen and still live permanently, i.e., be domiciled, outside of the United States. I know of no federal or Alabama statute or court case to the contrary.

The final assessments in issue are voided. Judgment is entered accordingly.

This Final Order may be appealed to circuit court within 30 days pursuant to Code of

Ala. 1975, §40-2B-2(m).

Entered February 26, 2016.

BILL THOMPSON
Chief Tax Tribunal Judge

bt:dr

cc: Gwendolyn B. Garner, Esq.
Edward & Makoto Ragland