IDAHO

RESIDENCY STATUS
AND
IDAHO SOURCE INCOME

HOW RESIDENCY AFFECTS YOUR IDAHO INCOME TAX

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This brochure will help you determine your residency status and what part of your income can be taxed by Idaho. To learn how the law applies to you, you must first determine your residency status.

Why is residency status important?

Your residency status determines what income the state of Idaho can tax. If you are a:

Resident - You are taxed on all your income, including income from sources outside Idaho. If some or all of the income taxed by Idaho is also taxed by another state, you may be entitled to a credit against your Idaho tax.

Part-year resident - You are taxed on all the income you receive while living in Idaho plus any income you receive from Idaho sources when not living in Idaho.

Nonresident - You are taxed only on your income from Idaho sources.

What determines my residency status?

You are a resident if you:

- Keep a home in Idaho for the entire tax year and spend more than 270 days of the year in Idaho; or
- Are **domiciled** in Idaho for the entire tax year. (See the next column for a description of domicile.)

You are a part-year resident if you are not a resident of Idaho and you:

- Changed your domicile either to or from Idaho during the tax year; or
- Resided in Idaho more than one day during the tax year. You reside in Idaho if you have a home in Idaho and are here for more than a temporary reason.

You are a nonresident if you are not a resident or part-year resident of Idaho.

What does "domicile" mean?

Domicile is the place where you have your permanent home and where you intend to return whenever you are away. It is the place that is the center of your personal and business life.

Domicile and residence are not the same thing. You can have more than one residence, but you can have only one domicile at a time.

Once established, your domicile does not change until you abandon it with the intention of acquiring a new one and are present in your new domicile.

If you claim a change in your domicile, you must prove you actually made such a change. The type of information the Tax Commission looks at to determine domicile may include: a comparison of homes in different locations; where you are actively involved in business or financial matters; where and how you spend time during the tax year; where sentimental items or family heirlooms are kept; and where your family lives. Any decision about an individual's domicile requires consideration of all the facts and circumstances that may help show the individual's intent. Those listed here, while often present, are only examples of the evidence that needs to be considered in determining domicile.

Example: Joe Miller's family lives in Idaho. Joe takes a job out of state, but returns home periodically to be with his family. Idaho is still his permanent home, so Joe is still domiciled in Idaho.

What determines whether my stay in Idaho is temporary?

Several factors are considered in determining whether you are in Idaho for more than a temporary purpose. They include:

- The time you spend in Idaho;
- Any business activity you conduct;

- Banking and other financial dealings; and
- Family and social ties.

If your stay is related to a significant business or financial purpose or you have important family or social ties in Idaho, you are in Idaho for other than a temporary purpose. However, if you are on vacation or visiting, you are considered to be in Idaho only for a temporary purpose.

If you are in Idaho for 90 days or more during a tax year, you are presumed to be here for more than a temporary purpose. If this is not true, you must show that your stay is consistent with that of a vacationer or visitor.

Example: Bill and Lois are domiciled in California and have a home there. They also own a home in Idaho where they vacation each summer. In 1997 they spent 100 days in Idaho. Because they were in Idaho at least 90 days, Bill and Lois must prove they were here only on a temporary basis, as vacationers or tourists. They did not conduct business while in Idaho, did not work in Idaho, and did not have any family living here. They bought nonresident fishing licenses and did not claim the homeowner's exemption on their home. Bill and Lois regularly attended church in Idaho and bought memberships to the local golf course. However, because their activity in Idaho resembled that of a vacationer or tourist, Bill and Lois are considered Idaho nonresidents.

Example: Chuck is a construction worker domiciled in Utah where he also has a home. He worked in Idaho from April through October on a road construction project. While working in Idaho, he stayed in a travel trailer. Due to Chuck's job in Idaho, he was present for more than a temporary purpose. This is true although his home in Idaho was mobile. Based on the these facts, Chuck is a part-year resident because he lived in Idaho for more than one day and was in Idaho for more than a temporary purpose. He is subject to Idaho tax on all the income he received during the time he lived in Idaho.

If I am domiciled in Idaho, must I file an Idaho income tax return?

Generally, yes. But there is an exception. Even if you are domiciled in Idaho, you are not considered a resident and do not have to file an Idaho income tax return if you are absent from the state for at least 445 days in a 15-month period. However, this does not apply if you do any of the following:

- Have a permanent home in Idaho where your spouse or minor children live for more than 60 days during the calendar year;
- Claim Idaho as your tax home for taking away-from-home expenses on your federal return;
- Are employed on the staff of a U.S. Senator or Representative; or
- Hold an elected or appointed office of the U.S. Government other than the armed forces or career appointment in the U.S. Foreign Service.

After you meet the initial 445-day absence test, you cannot be in Idaho for more than 60 days in any calendar year. Once you return to Idaho and stay for more than 60 days, you will once again be an Idaho resident.

Example: John is domiciled in Idaho. He works for a construction company that assigned him to a three-year project in Alaska. John will return to Idaho when the work is done. He claimed Alaska as his tax home for federal income tax purposes. John left Idaho on July 15, 1994. He was in Idaho from March 20, 1995 through March 27, 1995, and from

December 15, 1996 through December 30, 1996. John returned to his home in Idaho on September 30, 1997 when the project was completed and stayed in Idaho through the end of the year.

John's initial 15-month period started July 15, 1994. He was not considered an Idaho resident and did not have to file an Idaho income tax return because he was absent from Idaho for 450 days in the first 15-month period (July 15, 1994 through October 15, 1995). John became a resident again on September 30, 1997. This is the date he returned to Idaho and remained for more than 60 days. For the years 1994 through 1997, John's residency status is as follows:

1994 - Part-year resident (resident January 1-July 14, nonresident July 15-December 31, 1994).

1995 - Nonresident.

1996 - Nonresident.

1997 - Part-year resident (nonresident January 1-September 29, resident September 30-December 31, 1997).

If John was married and his wife stayed at home in Idaho, John would not qualify for nonresident status. He would have been an Idaho resident for 1994-1997 since he was domiciled in Idaho. (This example also applies to persons working out of the country.)

<u>If I am in the military, what is my residency status?</u>

If you are stationed in Idaho on active duty with the military, you are considered a resident of the state where you are domiciled. (This is presumed to be your military home of record.) Therefore, you are a military nonresident of Idaho unless you are domiciled in Idaho. As a military nonresident, you are taxed on income you receive from Idaho sources. However, active duty military pay is not taxed.

If you are a nonmilitary spouse living in Idaho, you are either a resident or a part-year resident, even though your military spouse is a nonresident.

<u>Example:</u> Gary and his wife, Linda, are domiciled in Alabama. Gary is in the Air Force and claims Alabama as his home of record. In October 1996, the couple moved to Idaho when Gary was transferred to Mountain Home Air Force Base. Gary and Linda stayed in Idaho during 1997 as well. Since Gary's domicile is not Idaho, he is a military nonresident. If Gary changes his domicile to Idaho, he will then be considered an Idaho resident.

Since Linda moved to Idaho in 1996, she is a part-year resident for 1996. She is a resident of Idaho for 1997 since she was in Idaho the whole year. She could also change her domicile to Idaho if she decides to make Idaho her permanent home.

For more information about the taxation of military personnel, contact the Idaho State Tax Commission.

<u>What if I am a transportation employee whose job brings me to Idaho?</u>

Federal laws limit states from taxing compensation of certain types of employees. If you are an interstate rail or motor carrier employee and have regularly assigned duties in more than one state, you are subject to income tax only in your state of residence.

Motor carrier employees include drivers of commercial vehicles, mechanics, freight handlers, and individuals (other than employers) whose job directly affects commercial motor vehicle safety. This includes independent contractors but not employers. Also, government employees are not covered by this law. The portion of their income that was earned in Idaho is taxable by Idaho.

If you assign an employee to operate a commercial motor vehicle you own or lease, and you use the vehicle in a business that affects interstate commerce, you are considered an employer. The portion of your income that was earned in Idaho would be taxable.

If you are an employee of an air carrier having regularly assigned duties on aircraft in more than one state, you are subject to the income tax laws of only your state of domicile, and the state in which you earn more than 50 percent of your pay from the air carrier.

IDAHO SOURCE INCOME

What is income from an Idaho source (Idaho source income)?

Idaho source income is income from transactions or activities that take place in Idaho, or from property in Idaho. It includes taxable gains or losses.

If the transaction or activity that created the income did not take place solely in Idaho, or if the property that generated the income was not located solely in Idaho, the income must be divided among the various states.

Interest income earned by a nonresident on a personal bank account in Idaho is not Idaho source income.

What is Idaho compensation?

The amount of your wages, salary, and other compensation that is Idaho source income is often referred to as your Idaho compensation. If you work only in Idaho during the year, the total compensation you receive is Idaho compensation. If you work only outside Idaho during the year, you have no Idaho compensation. However, if you work in and outside Idaho during the year, you or your employer must compute an Idaho compensation percentage to determine your Idaho compensation. The information should be provided on the W-2 form.

The Idaho compensation percentage is computed as follows:

$$\frac{\text{Idaho work days}}{\text{Total work days}}$$

Work days include only those days you provided personal services for your employer. They do not include holidays, vacation days, days off due to illness or any other days you did not provide personal services for your employer. “Idaho work days” are the total days you worked in Idaho for a particular employer during the year. “Total work days” are the total days you worked for that employer both in and outside Idaho during the year.

Generally, if you work a five-day work week all year, your total work days will be 260 less any vacation, holidays, sick leave days, and other days you take off.

Example: Jake lives in Washington and works only for XYZ Company during the year. He worked in Idaho from January through October and in Washington from November through December. He earned $40,000 for the year from XYZ Company and computes his Idaho compensation percentage and Idaho compensation as follows:

Idaho work days = 220 days less 6 holidays, 2 sick days, and 10 vacation days = 202

Total work days = 260 days less 9 holidays, 4 sick days, and 15 vacation days = 232

Idaho compensation percentage =

$$\frac{\text{202 Idaho work days}}{\text{232 total work days}} = 87\%$$

87% x $40,000 (compensation from XYZ Co. for the year) = Idaho compensation of $34,800

If Jake had worked in and outside Idaho for more than one employer during the year, he would have made this calculation for each employer.

How do I calculate income from real or tangible personal property?

Rents, royalties, profits, gains, losses and other income from owning or selling real (land or buildings) and tangible personal (furnishings or equipment) property located or used in Idaho are Idaho source income.

If the property is located or used in and outside Idaho, the Idaho portion of the income, gain or loss is computed as follows:

For **tangible personal property -**

$$\frac{\text{\# of days the property was used in Idaho}}{\text{\# of days the property was used everywhere}}$$

For **real property -**

$$\frac{\text{Average value of property in Idaho}}{\text{Average value of property everywhere}}$$

The value of real property is determined by the original cost of the land and improvements. The average value is computed by averaging the values at the beginning and end of the tax year. However, the Tax Commission may require monthly averaging to properly reflect the average value of the property.

Example: Mary is a resident of Utah. She owns a parcel of land that spans the borders of Utah and Idaho. She sold the land for a gain of $100,000. The land in Idaho originally cost $550,000; the land in Utah cost $450,000. Mary must report $55,000 of Idaho source income from the gain on the sale of the land, computed as follows:

$$\$100{,}000 \text{ gain} \times \frac{\$550{,}000}{\$1{,}000{,}000} = \$55{,}000$$

When is income from intangible property Idaho source income?

The general rule for income from an intangible asset (stock, copyright, patent, trademark, etc.) is that it is sourced to the state where you are domiciled. However, if you are a nonresident and you own or dispose of an interest in intangible personal property, the income is Idaho source income to the extent the property was used in a business conducted in Idaho.

Idaho source income also includes:
- Interest income you receive from an installment sale of Idaho real property or tangible personal property located in Idaho when the property was sold.
- Interest income you receive from a loan you made to your S corporation or partnership. The S corporation's or partnership's Idaho apportionment factor is used to compute how much of the interest is Idaho source.

Example: Dick and Jane, residents of Nevada, owned a rental house in Idaho. In 1995 they sold the house and carried the contract. For the next 15 years, the buyer will make interest and principal payments to Dick and Jane. The gain on the sale of the house is Idaho source income. In addition, the interest income they receive will also be Idaho source income.

Example: Frank, a resident of Wyoming, owns an S corporation that operated solely in Idaho (Idaho apportionment factor is 100%). In 1997, he loaned money to the S corporation. Terms of the loan include interest and principal payments for the next five years. Because the loan is to an S corporation with a 100% Idaho apportionment factor, 100% of the interest income is Idaho source income.

How do I compute income from a sole proprietorship?

If your business is a sole proprietorship (including a farm) that operates in and outside Idaho, you use a formula to compute your Idaho business income and expenses.

The apportionment formula is used to estimate the percent of your income that is due to your Idaho activities when your business operates in more than one state. The Idaho formula measures the percent of your business' property, payroll, and sales in Idaho as compared with everywhere. Your sales are multiplied by two, or "double-weighted." The total of these three percents (property, payroll and sales) is divided by four. The result is your Idaho apportionment factor. Your net business income or loss is multiplied by your Idaho apportionment factor to compute your Idaho source income from business activities.

How do I compute my income as a shareholder or partner?

Partnerships and S corporations generally do not pay tax on the income they earn. Instead, their items of income, loss, deduction and credit are passed through to the partners and shareholders who report these pass-through items on their own returns.

If you are a shareholder of an S corporation or a partner of a partnership that operates both in and outside Idaho, your Idaho source income includes your share of the income apportioned to Idaho plus your share of the income allocated to Idaho from the S corporation or partnership. Income apportioned to Idaho is computed by multiplying each pass-through item of business income by the Idaho apportionment factor of the business.

If you are a part-year resident, you must report the portion of pass-through income earned while residing in Idaho plus the amount of pass-through income that is apportioned and allocated to Idaho while a nonresident of Idaho. Your pass-through items of income are treated as received evenly during the tax year or during the part of the tax year you were a shareholder or partner. (Divide by 12 and multiply by the number of months residing in Idaho to determine the amount of pass-through income to report as income earned while residing in Idaho.)

If you are a nonresident of Idaho, only the Idaho apportioned and allocated income is reportable as Idaho source income.

Pass-through items of business income or loss include:

- Ordinary income or loss from trade or business activities
- Net income or loss from rental real estate activities
- Net income or loss from other rental activities
- Interest income
- Dividends
- Royalties
- Capital gain or loss
- Other portfolio income or loss
- Gain or loss recognized according to Section 1231, Internal Revenue Code

Example: Assume you are a partner in a partnership that conducts business in Idaho and other states. The partnership's Idaho apportionment factor for the year is 25%. Your pass-through income consists of $15,000 of ordinary income, $200 of interest income, and $1,000 of capital gain. To determine the amount of your partnership pass-through income that is Idaho source income, multiply each item by the Idaho apportionment factor of 25%.

Ordinary income
$15,000 x 25% = $3,750 Idaho source income
Interest income
$200 x 25% = $50 Idaho source income
Capital gain
$1,000 x 25% = $250 Idaho source income

If a pass-through item is nonbusiness income of the business, you will have Idaho source income if the nonbusiness income is allocated to Idaho. The S corporation or partnership will determine whether the income is business or nonbusiness income. The S corporation or partnership will also compute the Idaho apportionment factor, the amount of business income apportioned to Idaho, and the amount of nonbusiness income allocated to Idaho. The S corporation or partnership should provide this information on your K-1 form.

What if I am a member of a Limited Liability Company (LLC)?

If you are a member of an LLC that is treated as a partnership for federal income tax purposes, you will follow the same rules as just discussed for a partner of a partnership.

If you are the sole member of an LLC and you elect to have the entity disregarded for federal income tax purposes, you will follow the same rules as previously discussed for sole proprietorships.

If you are a member of an LLC that is treated as a corporation for federal income tax purposes, the LLC will be treated as a corporation for Idaho income tax purposes.

What about income from trusts and estates?

Income from an Idaho resident trust or estate that is distributed or distributable to you is Idaho source income. If the trust or estate is a nonresident, only the income that is Idaho source income to the estate or trust is Idaho source income to you. A nonresident estate or trust uses the same rules as a nonresident individual when determining its Idaho source income.

Example: Assume you are an Idaho nonresident and a beneficiary of a nonresident trust. The trust sells and in Oregon, the gain from which is distributed to you. Since the gain is sourced outside Idaho to the nonresident trust, it is not Idaho source income. (Remember, if you are an Idaho resident, the income is taxed by Idaho because you are a resident.) If the land sold was in Idaho, the gain would be Idaho source income to the nonresident trust and to you as well. If the trust was an Idaho resident trust, the gain from the sale of land, wherever located, would be Idaho source income to the beneficiary, as all income of a resident trust is Idaho source income to the beneficiary. These examples also apply to an estate.

Commonly-asked questions about Idaho source income:

Q: I am a resident of and domiciled in Oregon. I attended Boise State University during 1996. I stayed in a dormitory from January through May 25 and from August 25 through the end of the year. During the summer I returned to my home in Oregon. Because I was in Idaho more than 270 days, am I considered an Idaho resident?

A: No. You are considered an Idaho part-year resident because you did not maintain a home in Idaho the entire year. Therefore, you are taxed on your Idaho source income received during the year and all your income received while living in Idaho. Being a resident for income tax purposes is different from being a resident for tuition purposes.

Q: My husband and I have a fishing business and a home in Alaska. We also have a home in Idaho where we live during the off season. If I register to vote in Idaho, am I required to pay Idaho taxes?

A: Because you live in Idaho at least part of the year, you may be a resident or a part-year resident, depending on your situation. If you are domiciled in Idaho or have a home in Idaho the entire year and you spend more than 270 days here, you are an Idaho resident and all your income is taxable to Idaho. Registering to vote in Idaho is one sign that you are domiciled in Idaho. However, other factors are also considered, such as whether you claim the Idaho homeowner's exemption, how long you have had a home in each state, etc. If you are in Idaho more than 270 days, you are considered an Idaho resident even if you are domiciled in Alaska.

Q: I live and work in Idaho and my husband lives and works in Washington. How do I file our taxes?

A: Spouses can have separate residences and domiciles. Because you live in Idaho, you are an Idaho resident. Although your husband lives in Washington, he could also be an Idaho resident if he is domiciled in Idaho. If you file a joint return for federal income tax purposes, you must file a joint return for Idaho. If your husband is not a resident of Idaho, you must file Idaho Form 43, Idaho Part-year Resident & Nonresident Income Tax Return. Your husband should be listed as a nonresident and you should be listed as a resident. Because Idaho and Washington are both community property states, each of you has a one-half interest in the other's earnings (assuming neither has separate income). You must report one-half of all the community income (including your husband's earnings) regardless of source plus your separate income. Your husband must report one-half of the community income that is from Idaho sources plus his separate income from Idaho sources.

Q: My wife and I retired recently. We were domiciled in and residents of Idaho. Since retiring, we have sold our home in Idaho, bought a motor home and plan to travel around the country. Since we will not be living in Idaho, where will our domicile be?

A: Idaho remains your domicile until you establish a new one. Because you will be traveling around the country without intending to establish a new domicile, Idaho will remain your domicile and you will continue to be Idaho residents. All your income will be taxable to Idaho.

Q: I work for a trucking company based in California, where I have a home. I make pick-ups and deliveries in Idaho or drive through Idaho as part of my job. Do I have to report part of my earnings as Idaho source income?

A: No. Because you are an interstate motor carrier employee with regularly assigned duties in more than one state, only your state of residence can tax your earnings. Since you live in California, only California can tax those wages earned as an interstate motor carrier employee.

Q: Assume the same facts as in the previous question except that I own or lease the truck. Is my income taxable by Idaho?

A: Yes. Idaho can tax your income because you would be an employer rather than an employee. Your income from the trucking business must be apportioned to Idaho based on miles driven in Idaho compared to total miles.

Q: I recently moved from Idaho to California. While a resident of California I received pension income from a job I had in Idaho. Do I need to report this income as Idaho source income?

A: No. Although the pension income is from an Idaho source, federal law prevents Idaho from taxing it. However, Idaho may tax other types of Idaho source retirement income received by an Idaho nonresident.

If you would like to know more about Idaho residency and Idaho source income, contact your accountant or the Idaho State Tax Commission toll free at **1-800-972-7660** or contact any of the offices listed below:

Boise
800 Park Blvd., Plaza IV
(208) 334-7660

Coeur d'Alene
1910 Northwest Blvd.
Suite 100
(208) 769-1500

Pocatello
611 Wilson Street
Suite 5
(208) 236-6244

Lewiston
1118 F Street
(208) 799-3491

Twin Falls
1038 Blue Lakes Blvd. N.
Suite C
(208) 736-3040

Idaho Falls
150 Shoup Avenue
Suite 16
(208) 525-7116

HEARING IMPAIRED CALLERS:
Use the Idaho Relay Service (1-800-377-3529) to reach any Tax Commission office listed above.

The Idaho State Tax Commission prepared this brochure to provide general information and guidance. It is not a comprehensive statement of Idaho tax law. Individuals should address specific questions to the Idaho State Tax Commission or to a qualified tax practitioner.

Costs associated with this publication are available from the Idaho State Tax Commission in accordance with Section 60-202, Idaho Code.