BOARD OF TAX APPEALS

STATE OF LOUISIANA

DAVID F. TARCZA

versus **B.T.A. Docket No. 14259A**

LOUISIANA DEPARTMENT OF REVENUE

JUDGMENT WITH WRITTEN REASONS

On August 6, 2026, this matter came before the Board for hearing on the Motion for Summary Judgment filed by David F. Tarcza ("Taxpayer"). Presiding at the hearing were Chairman Francis J. "Jay" Lobrano, Vice-Chair Judge Lisa Woodruff-White (Ret.), and Michael G. Gaffney. Appearing before the Board were Robert Tarcza, attorney for the Taxpayer, and Angelique Boyd, attorney for the Louisiana Department of Revenue ("Department").

At the beginning of the hearing, counsel for the Department represented to the Board that they did not oppose the Taxpayer's Ex Parte Motion to Substitute Exhibit "C" filed on July 23, 2026.[1] Based on the representations of counsel, the Board granted the Motion to Substitute and struck the unredacted version of Taxpayer's Exhibit C attached to their originally filed Motion for Summary Judgment from the record, and further substituted the redacted version of Exhibit C attached to the Taxpayer's Ex Parte Motion to Substitute Exhibit "C" filed on July 23, 2026.

At the conclusion of the hearing, the Board took the matter under advisement. In accordance with the attached Written Reasons, the Board now rules as follows:

IT IS ORDERED, ADJUDGED, AND DECREED, that the Taxpayer's Motion for Summary Judgment is DENIED.

[1] On July 22, 2026, the Taxpayer filed a Notice of Filing Redacted Exhibits and Request for the Return of Unredacted Exhibits. The Department indicated their opposition to that pleading in email correspondence to the Board's staff.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED, that the Taxpayer's Motion for legal fees and costs is DENIED.

Rendered and signed at Baton Rouge, Louisiana, this 3rd day of September, 2026.

FOR THE BOARD:

Michael G. Gaffney

MICHAEL G. GAFFNEY
MEMBER, BOARD OF TAX APPEALS
STATE OF LOUISIANA

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WRITTEN REASONS FOR JUDGMENT

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[2] On July 22, 2026, the Taxpayer filed a Notice of Filing Redacted Exhibits and Request for the Return of Unredacted Exhibits. The Department indicated their opposition to that pleading in email correspondence to the Board's staff.

Background

The Taxpayer timely filed his Petition on January 28, 2025. In his Petition, the Taxpayer prays for a redetermination of a Notice of Assessment and Notice of Right to Appeal to the Louisiana Board of Tax Appeals issued by the Department on January 3, 2025, for a total balance of $1,132.28 for 2020 Louisiana Resident individual income tax, penalties, and interest ("Assessment"). On June 3, 2026, the Taxpayer filed the Motion for Summary Judgment presently under consideration. The Taxpayer's position is that he was not a resident of Louisiana in 2020. The Taxpayer acknowledges that he was present in the state of Louisiana until April 1, 2020, and that he earned Louisiana-sourced wage income while working in the state. Nevertheless, he maintains that the amount of his Louisiana-source income was too low to trigger any tax liability or duty to file a Louisiana Individual Income Tax Return under La. R.S. 47:101(A).[3] Additionally, the Taxpayer prays for the award of legal fees in the amount of $7,336.00 and costs in the amount of $211.80, for a total award of $7,547.80.

The Taxpayer moved from Louisiana to South Carolina on April 1, 2020. Prior to moving to South Carolina, the Taxpayer worked for Nunez Community College. He received a 2020 W-2 from the Louisiana Community and Technical College System ("LCTCS"). The LCTCS W-2 reports Louisiana-sourced income in the amount of $1,680.00 and Louisiana withholdings in the amount of $17.19. After moving to South Carolina, the Taxpayer worked for the South Carolina Department of Environmental Quality ("SCDEQ"). The SCDEQ W-2 reports wages in the amount of $25,681.60. Since moving, the Taxpayer has not returned to Louisiana.

The Taxpayer provided a copy of his South Carolina driver's license and voter registration. The Department points out that the driver's license and voter registration were both issued in 2021. Taxpayer's explanation for the delay in

3 The statute provides that, "[a]ll individuals required to file a federal income tax return shall be required to file an individual income tax return. No tax shall be due for any taxable period for which an individual income tax return is not required to be filed pursuant to this section." 26 U.S.C. 6012(f) requires all non-married individuals whose income equals or exceeds the standard deduction to file a federal return. Taxpayer's total income for 2020 exceeded the standard deduction amount.

obtaining the driver's license and voter registration is shown in a letter included in Exhibit C to his Motion for Summary Judgment. In that letter, which is from Taxpayer's counsel to the Department's counsel, dated October 27, 2025, counsel stated the Taxpayer did not obtain the documents sooner because of COVID restrictions.

The Taxpayer also provided a copy of the execution page of a lease for an apartment in South Carolina. The Department notes that the lease is dated June 15, 2020, about two and a half months after he claims to have moved from Louisiana to South Carolina. In the same letter mentioned above, Taxpayer's counsel states that the Taxpayer lived with his brother in Lexington, South Carolina for a month while saving enough money to rent his own apartment. This still seems to leave about a month and a half gap in time between moving and getting an apartment, but it nevertheless appears undisputed that the Taxpayer was at least not living in Louisiana after April 1, 2020.

Taxpayer also introduced copies of his 2020 federal and South Carolina returns. His federal return reports gross wages in the amount of $25,682.00. His South Carolina return reports the same amount of gross wages. His South Carolina return includes a 2020 "Nonresident Schedule." That document states "Schedule NR is for Nonresidents or Part-year residents." The "Schedule NR" does not mention Louisiana or specify the dates during which Taxpayer resided in South Carolina. Additionally, the Schedule NR attributes one hundred percent of the Taxpayer's gross income in 2020 to South Carolina.

The Department attached the affidavit of Revenue Tax Assistant Director Natasha Hayes to their Opposition Memorandum. Ms. Hayes avers that on August 8, 2024, the Department issued a W-2 Questionnaire to the Taxpayer. The Questionnaire stated the Department had received information that the Taxpayer had earned Louisiana wages or income for the 2020 tax year and that the Department was unable to locate a 2020 Louisiana return for the Taxpayer. On November 18, 2024, the Department proceeded to issue a Notice of Proposed Tax Due for 2020.

Then, on January 3, 2025, the Department issued the Assessment. Copies of the Notices were attached to Ms. Hayes's Affidavit.

The Taxpayer included a copy of the 2020 Louisiana Tax Table with their Exhibit B. The Tax Table shows that if Louisiana income is less than $4,500, then the Louisiana tax is $0. The Taxpayer claims that this shows that he has no liability if Louisiana can only tax his Louisiana-sourced income, i.e. if he was a not a resident of Louisiana. During the hearing, counsel for the Department stated that there was no dispute that the Taxpayer would have no income tax liability to Louisiana if he was determined not to be a Louisiana resident.

Rather, the Department maintains that the issue in this case is domicile. Moreover, the Department asserts that domicile is a fact-intensive determination that is not appropriate for resolution on a Motion for Summary Judgment. Additionally, the Department contends that the Taxpayer was and is still required to file a 2020 Louisiana return. Counsel for the Taxpayer argued that filing a Louisiana return is impossible because it is predicated on filing a federal return and the deadline to amend his 2020 federal return has passed. Finally, the Department acknowledges that the Taxpayer may be entitled to a credit for the income tax that he paid to South Carolina.

Discussion

The summary judgment procedure is favored and is intended "to secure the just, speedy, and inexpensive determination of every action." La. C.C.P. art. 966(A)(2). A motion for summary judgment is properly granted if, after an opportunity for adequate discovery, "the motion, memorandum, and supporting documents show that there is no genuine issue as to material fact and that the mover is entitled to judgment as a matter of law." La. C.C.P. art. 966(A)(3). La. C.C.P. art. 966(D)(1) states that the burden of proof on summary judgment rests with the mover. Nevertheless, when the motion is made and supported as provided in Art. 966, an adverse party may not rest on the mere allegations or denials of his pleadings, but must set forth specific facts showing there is a genuine issue for trial. La. C.C.P. art.

967 (B); *Latour v. Brock*, 23-00262 (La. 6/21/23), 362 So. 3d 405. A genuine issue is one about which reasonable persons could disagree. *King v. Town of Clarks* , 21-01897 (La. 2/22/22), 345 So. 3d 422. Any doubt as to a dispute regarding a material issue of fact must be resolved against granting the motion and in favor of trial on the merits. *Id.*

The Board the court must view the record and all reasonable inferences to be drawn from it in the light most favorable to the nonmoving party. *Hines v. Garrett*, 04-0806 (La. 6/25/04), 876 So.2d 764. Specifically, any doubt as to a dispute regarding a material issue of fact must be resolved against granting the motion and in favor of trial on the merits. *Suire v. Lafayette City-Parish Consol. Gov't*, 04-1459, 04-1460, 04-1466 (La. 4/12/05), 907 So.2d 37. As such, the Louisiana Supreme Court has previously noted that, "[s]ummary judgment is seldom appropriate for determinations based on subjective facts, such as motive, intent, good faith, knowledge, and malice." *King v. Town of Clarks*, 2021-01897, p. 2 (La. 2/22/22), 345 So.3d 422, 423 (quoting *Smith v. Our Lady of the Lake Hosp., Inc.*, 93-2512 (La. 7/5/94), 639 So.2d 730, 751). The law is well settled that the trial court cannot make credibility determinations, evaluate testimony, or weigh conflicting evidence in making its decision whether to grant or deny a motion for summary judgment. *Cypress Heights Acad. v. CHA Inv'rs, LLC*, 2021-0820, p. 13 (La. App. 1 Cir. 6/7/22), 343 So.3d 736, 745, *writ denied*, 2022-01284 (La. 11/8/22), 349 So.3d 574, and *writ denied sub nom. Cypress Heights Acad., Inc. v. CHA Inv'rs, LLC*, 2022-01247 (La. 11/8/22), 349 So.3d 576.

Residency for purposes of Louisiana's individual income tax is defined in La. R.S. 47:31(1), which states:

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

In 2020, the Taxpayer neither maintained a permanent place of abode in Louisiana nor did he spend, in aggregate, more than six months in the state. The only criteria under which the Taxpayer could be found to be a Louisiana resident is domicile. The concept of domicile in La. R.S. 47:31(1) is analogous to the concept of domicile in La. Civ. Code Art. 38. *See Viviano v. Bridges*, 2011-1474, (La. App. 3 Cir. 4/4/12), 87 So.3d 1007, *writ denied*, 2012-1362 (La. 9/28/12), 98 So.3d 847. Louisiana case law has traditionally held that domicile consists of two elements: (1) residence and (2) an intent to remain. *Landiak v. Richmond*, 2005-0758, p. 9 (La. 3/24/05), 899 So.2d 535, 542. Once established, there is a legal presumption against a change in domicile and overcoming this presumption requires positive and satisfactory proof of the intent to remain in the new place and to abandon the former domicile. *Becker v. Dean*, 2003-2493, p. 10-11 (La. 9/18/03), 854 So.2d 864, 871; *Pattan v. Fields*, 95–1936 (La. App. 1 Cir. 1995), 669 So.2d 1233. When there is no declaration that a person has changed his domicile, proof of the intent depends upon the circumstances. *Messer v. London*, 438 So.2d 546 (La. 1983); *Herpin v. Boudreaux*, 98–306 (La. App. 3 Cir. 3/5/98), 709 So.2d 269, *writ denied*, 98–0578 (La. 3/11/98), 712 So.2d 859. Furthermore, the Louisiana Supreme Court has opined:

> When documentary or other objective evidence casts doubt on a person's statements regarding intent, it is incumbent on courts to weigh the evidence presented in order to determine domicile in fact. Otherwise, the legal concept of domicile is meaningless and every person would be considered legally domiciled wherever he says he is domiciled. Some of the types of documentary evidence commonly considered by courts to determine domicile in fact include such things as voter registration, homestead exemptions, vehicle registration records, driver's license address, statements in notarial acts, and evidence that most of the person's property is housed at that location.[4]

Here, the Taxpayer has provided documentary evidence to establish his intent to remain in South Carolina by objective criteria. He leased an apartment in South Carolina. He also obtained a South Carolina driver's license and voter registration. The Department's focus on the date of these documents may reasonably lessen their weight. However, the Department did not offer any factual evidence to tip the scales in their direction. Even when discounted, some evidence outweighs no evidence.

If that were all, then the Board would find some evidence for the Taxpayer and none for the Department. Indeed, that seems to be the likely result should this matter

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

proceed to trial. However, some of the Taxpayer's own evidence gives the Board cause for concern. In particular, the Board is concerned with the apparently contradictory position taken by the Taxpayer in his 2020 state tax return shown by his filing as a nonresident of South Carolina.[5] There is nothing in the record to explain why the Taxpayer would do so if, as he claims, he became a permanent resident of or domiciled in South Carolina in 2020. There is also a question as to when then change in domicile occurred. Was the change immediate upon arriving in South Carolina, when he leased an apartment, or when he changed voter registration, etc.? The Board finds that this unexplained contradiction leaves a material question of fact unresolved and so precludes granting the Taxpayer's Motion for Summary Judgment.

Conclusion

For purposes of a motion for summary judgment, the evidence must indisputably point to one conclusion. Here the majority of the evidence available suggests that the Taxpayer changed his domicile to South Carolina. However, its unclear as to when this change occurred particularly in light of the issue as to why the Taxpayer would represent on his South Carolina state tax return that he was not a resident of South Carolina in 2020. This unexplained discrepancy gives the Board sufficient doubt to deny the motion. Finally, for the same reason that the Taxpayer is not entitled to summary judgment, the Board finds that an award of legal fees and costs is inappropriate at this time.

Baton Rouge, Louisiana, this 3rd day of September, 2026.

FOR THE BOARD:

MICHAEL G. GAFFNEY
MEMBER, BOARD OF TAX APPEALS
STATE OF LOUISIANA

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5 Taxpayer's Exhibit C includes his 2020 South Carolina Nonresident Schedule ("Schedule NR"). The Schedule NR states that it is for "Nonresidents or Part-year residents." The Schedule NR also provides a space where the filer is to indicate the dates of their part-year South Carolina residency. However, the Taxpayer did not indicate a part-year residency in South Carolina. In addition, the Taxpayer's 2020 South Carolina return does not apparently include his Louisiana-source income. It is unclear at this juncture if this was simply an inadvertent omission or reflective of an intentional position on the Taxpayer's return.