

**STATE OF LOUISIANA
BOARD OF TAX APPEALS**

**ROBERT JOSEPH JUGE, III
AND JESSICA ANNE JUGE**

PETITIONERS

VERSUS

NO. 11973B

**SECRETARY, DEPARTMENT OF REVENUE,
STATE OF LOUISIANA**

RESPONDENT

JUDGMENT WITH WRITTEN REASONS

A hearing on the merits of this matter was held before the Board on October 7, 2020.

Presiding at the hearing were: Judge Tony Graphia (Ret.), Chairman, and board members Cade R. Cole and Jay Lobrano. Participating in the hearing were: Robert Joseph Juge, III (“Robert”) and Jessica Anne Juge (“Jessica”) (collectively the “Taxpayers”), and Miranda Scroggins, representing the Secretary, Department of Revenue, State of Louisiana (the “Secretary”). After the hearing, the matter was taken under advisement.

Taxpayers appeal from the Secretary’s reduction of a refund for 2018 individual income tax. Taxpayers filed a 2018 Nonresident return. On their return, Taxpayers reported no Louisiana Adjusted Gross Income. However, Taxpayers reported \$1,925.00 Louisiana tax withheld. As a result, Taxpayers’ return showed a refund due in the amount of \$1,925.00. The Secretary determined that Taxpayers should have reported income as Louisiana residents and made adjustments to their return. Accordingly, the Secretary issued a Notice of Refund Reduction and Notice of Adjustment(s) to Your Tax Return, both dated May 21, 2019, showing a balance due of \$225.00. The Secretary later issued another Notice of Refund Reduction and Notice of Adjustment(s) to Your Tax Return, both dated June 21, 2019, showing an amount due of

\$2,535.00. Taxpayers appeal from all of the above notices and claim a refund due in the amount of \$1,925.00.¹ The Department asserts that Taxpayers are liable for \$2,535.00 in tax, plus penalty and interest.

Major Juge extensively briefed the issue of whether you could change your “home of record” within U.S. Department of Defense (“DOD”) records. He also extensively briefed concerning a statement on the Secretary’s website suggesting that you could not change your domicile away from your DOD home of record. He provided extensive federal authorities and jurisprudence in support of his position. At the commencement of the trial, the Secretary’s counsel made clear that she did not contest this issue. The Secretary merely argued that his change in domicile occurred late in 2018, well after the date claimed by Major Juge.

Robert Juge is a Major in the United States Army on active duty. Under orders of the Army, the Taxpayers lived outside of Louisiana for a number of years preceding 2018. In June 2017, Robert was ordered to San Antonio, Texas. The Juges testified that in late 2017, due to changes in Major Juge’s career trajectory, they focused on his post-military career and jointly decided at that time to remain permanently in San Antonio, Texas.

The issue is whether Taxpayers were liable for Louisiana income tax for 2018. La. R.S. 47:31 provides in relevant part that individuals that are domiciliaries of Louisiana are subject to Louisiana income tax. The question is: are the Taxpayers Louisiana domiciliaries? A further question is: have the Taxpayers changed their domicile from Louisiana to Texas?

Article 44 of the Louisiana Civil Code states: “Domicile is maintained until acquisition of a new domicile. A natural person changes domicile when he moves his residence to another

¹ Taxpayers also refer to a Notice of Proposed Tax Due dated June 20, 2019. That notice is based on the same underlying issue of the Taxpayer’s 2018 domicile that controls the outcome in this refund denial appeal.

location with the intent to make that location his habitual residence.” Article 45 of the Louisiana Civil Code provides that: “Proof of one's intent to establish or change domicile depends on the circumstances” Circumstances relevant to the issue of domicile include: where a taxpayer is registered to vote; the state of registration and title for the taxpayer’s automobile; the issuing state of the taxpayer’s driver’s license; where the taxpayer’s children attend school; if the taxpayer claimed a homestead exemption; the residence where the taxpayer received the bulk of their mail; and where the taxpayer received utility bills. *See Viviano v. Bridges*, 2011-1474 (La. App. 3 Cir. 4/4/12), 87 So.3d 1007; *Bergman v. Bridges*, Docket No. C00763 (La. Bd. Tax App. 5/12/11), 2011 WL 7140549.

On June 21, 2019, Taxpayers received notice of the Secretary’s intent to change their 2018 income tax return. Prior to that time, both Taxpayers had acquired Texas driver’s licenses, had two motor vehicles registered in Texas, and Robert acquired a Texas permit to carry a concealed weapon. Jessica testified that Taxpayers last lived in Louisiana in June 2012 and decided in August 2017 to remain in Texas. Robert and Jessica both testified that it was their intention to retire to Texas in the immediate future. Based on the foregoing, the Board rules that the Taxpayers were not domiciled in Louisiana during 2018.

IT IS ORDRED, ADJUDGED AND DECREED that there be Judgment in favor the Taxpayers and against the Secretary, that the Petition of the Taxpayers BE AND IS HEREBY GRANRED, and that the Secretary is thereby ordered to issue to Taxpayers a refund in the amount of \$1,925.00 plus applicable interest.

JUDGMENT RENDERED AND SIGNED at Baton Rouge, Louisiana this 4 day of
November, 2020.

For the Board:



Judge Tony Graphia (Ret.), Chairman