

**ILLINOIS INDEPENDENT TAX TRIBUNAL
CHICAGO, ILLINOIS**

JAMES E. & DOROTHY J. CORBIN)	
)	
)	14-TT-9
)	
STATE OF ILLINOIS)	Judge Brian F. Barov
DEPARTMENT OF REVENUE)	

**DEPARTMENT’S RESPONSE TO TAXPAYER’S
MOTION FOR SUMMARY JUDGMENT
AND
DEPARTMENT’S CROSS MOTION FOR SUMMARY JUDGMENT**

NOW COMES THE Department of Revenue of the State of Illinois (“Department”) through its attorney, Lisa Madigan, Attorney General of and for the State of Illinois, and moves this Court, pursuant to Section 2-1005 of the Illinois Code of Civil Procedure, 735 ILCS 5/2/1005, to deny Petitioner’s Motion for Summary Judgment and to grant Respondent’s Cross Motion for Summary Judgment and determine that Respondent’s Notice of Deficiency dated April 9, 2013 be made final. In support of this Motion Department states as follows:

1. Department issued a Notice of Deficiency to Respondent on April 9, 2013 for the 2001 tax year beginning May 1, 2001 and ending December 31, 2001. [Dep. Motion Exhibit 1]
2. Petitioner did file a “2001 Florida Intangible Personal Property Tax Return” that was signed by Petitioner on July 2, 2001, but the form states that it covers intangible personal property held by Petitioner “as of January 1, 2001.” [Dep. Motion Exhibit 2] Department maintains that Petitioner’s Illinois residency began on May 1, 2001.
3. There is no evidence that Petitioner filed a Florida Intangible Personal Property Tax Return for assets held on January 1, 2002.
4. Petitioners did register to vote in Florida in 1999, but 2001 was not an election year and their lack of voting in Illinois until 2006 has no relevance as to their residence in the year 2001.

5. Petitioner states that James Corbin insured his automobile in Florida with the R Limegrove Insurance Agency between November 1999 and March 2002. There is no dispute that Petitioner maintained houses in Florida and Illinois during this period and traveled back and forth between the two states. It is quite probable that Petitioner would maintain a vehicle in Florida for use while he was in Florida. Maintaining such a vehicle does not answer the question as to which state was his primary residence.
6. Petitioner states that Dorothy Corbin purchased a new Lexus in Florida on March 20, 2001 and that she insured it with a Boca Raton Florida insurance agency from March 21, 2001 to March 21, 2002. There is no dispute that Petitioner maintained houses in Florida and Illinois during this period and traveled back and forth between the two states. It is quite probable that Petitioner would maintain a vehicle in Florida for use while she was in Florida. Maintaining such a vehicle does not answer the question as to which state was her primary residence.
7. Petitioners executed a “Declaration of Domicile” on February 28, 2000 stating that they intended to make Florida their domicile at that time. There is no dispute that Petitioners changed their domicile from Illinois to Florida in 2000, but signing this document did not prohibit them from changing their mind a little over a year later and moving back to Illinois for another change of domicile on May 1, 2001.
8. On July 15, 1999 Petitioners purchased a house at 7764 Olympia Drive, West Palm Beach, Florida as a residence for James Corbin’s parents. The purchase price was \$155,900. [Dep. Motion Exhibit 3]
9. On September 27, 1999 Petitioners purchased a house in Jupiter Florida. [Dep. Motion Exhibit 4]
10. Petitioners sold their home located at 1410 Galloway Drive, Woodstock, Illinois on October 15, 1999 for \$487,250. In addition to the cost the house and property the closing agreement added \$22,500 for personal property and \$14,250 for a golf membership (in a private club I assume). [Dep. Motion Exhibit 5]
11. Petitioners sold their house in Jupiter Florida on September 14, 2001. [Dep. Motion Exhibit 6]
12. On October 2, 2000 Petitioner purchased a house at 9804 Autumn Lane, Woodstock, Illinois for \$465,000. [Dep. Motion Exhibit 7] The purchase agreement included a lease back agreement whereby the seller became the lessee

and Petitioners became the lessors of the house. This lease covered the period October 2, 2000 to March 31, 2001. This house contained a square footage of 5,349 and it contained four bedrooms, five bathrooms, a kitchen, dining room and a family room together with a basement and a wrap-around porch. The lot size was two acres. (Agreed Stipulation of Facts No. 3)

13. On December 28, 2001 Petitioners purchased a house at 7904 Sandhill Court, West Palm Beach, Florida for \$475,000. [Dep. Motion Exhibit 8] This house had 3,190 square feet and had three bedrooms, three bathrooms, a kitchen, dining room and family room. The house was located on lot that was 10,637 square feet. (Agreed Stipulation of Facts No. 4)
14. The driving distance from the house at Sandhill Court, West Palm Beach to Petitioner's parent's house was 16 miles. (Agreed Stipulation of Facts No. 5)
15. It is true that during the 2001 calendar year Petitioners spent 186 days in Florida and 170 days in Illinois, but from May 1 to the end of December 2001 Petitioners spent only 80 days in Florida and 156 days in Illinois. Note Petitioners spend May 1 to May 17, 2001 in Illinois. [Dep. Motion Exhibit 9]
16. An examination of the "2001 Annual Account Summary" statement from Petitioner's credit card shows a definite shift in the location of the charges on May 1, 2001 from Juniper Florida to Woodstock Illinois. In particular there are some large expenditures in Illinois that are for home improvement. [Dep. Motion Exhibit 10]
 - a) There are frequent purchases from Home Depot (Under Merchandise on 6/03 for \$665, on 6/08 for \$53, 6/11 for \$618, on 6/12 for \$63, on 6/19 for \$326 and on 12/03 for \$216).
 - b) Contract Builders (which appears to be a hardware store) (Under Merchandise on 5/10 for \$408, and 6/19 for \$426).
 - c) Mattress Giant in Crystal Lake Illinois under Merchandise on 4/05 for \$958.
 - d) Tome-Price Bloomingdale, a furniture store, under Merchandise on 4/11 for \$1,767 and on June 14th for \$1,515.
 - e) Sunburst Shutters of Illinois which provides which provides shutters, blinds, shades, panel tracks and window film (<http://sunburstshutters.com>). At Sunburst Shutters under Merchandise on June 14 they spent \$800; and on July 6 they spent \$774.

f) At Gulgren Appliance in Crystal Lake Illinois they spent under Merchandise \$2,496 on July 5.

17. Petitioner joined the Bull Valley Golf Club in Woodstock Illinois (<http://www.bullvalleygolfclub.com>). Petitioner paid to the Bull Valley Golf Club under Merchandise \$1,404 on May 29; \$1,599 on June 25; \$707 on July 25; \$709 on August 24; \$502 on September 25; \$620 on October 25; \$1,269 on November 27 and \$8,228 on December 14.

WHEREFORE, the Respondent, Illinois Department of Revenue, respectfully request this Court to issue an Order denying Petitioner's Motion for Summary Judgment and grant Respondent's Cross Motion for Summary Judgment and rule that Respondent's Notice of Deficiency issued to Petitioners on April 9, 2013 be made final.

Respectfully Submitted,

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Date: April 30, 2015

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