BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL BY THE COMMISSIONER OF REVENUE

In the Matter of	)	
	)	
B. O. U.	)	OAH No. 23-0389-PFD
	)	
	)	

DECISION

I. INTRODUCTION

B. U. applied for a 2022 Permanent Fund Dividend ("PFD"). The PFD Division denied the application because for 2021 — the qualifying year for a 2022 PFD — Ms. U. filed a resident tax return in Pennsylvania. Ms. U. argued that as a college student she was required to file a resident tax return but offered no evidence to support this position. Pennsylvania Department of Revenue guidance documents state the opposite — that a college student will generally file a non-resident tax return — and indeed Ms. U. filed at least two non-resident returns in Pennsylvania while a student there. Ms. U. has not offered any evidence of amending her return to change her residency status either. She has thus failed to meet her burden to show that she is eligible for a PFD despite filing a resident tax return in another state. The Division's decision is affirmed.

II. FACTS

B. U. attended college in Pennsylvania for four years and worked there during the school year, including in the first half of 2021 while she was finishing her senior year.[1] She later filed a resident part-year tax return in Pennsylvania for 2021.[2] On this tax return, Ms. U. stated that she was a Pennsylvania resident from January 1, 2021 to May 18, 2021.[3] When asked on her 2022 PFD application whether she had filed a resident or part-resident tax return in another state for 2021, Ms. U. answered in the affirmative.[4]

The Division denied Ms. U.'s 2022 PFD application because she filed a resident tax return in Pennsylvania.[5] Ms. U. requested an informal appeal, arguing that as a student, she was

[1] Ex. 1 at 3; Ex. 4 at 3.
[2] Ex. 2.
[3] Ex. 2 at 1.
[4] Ex. 5 at 1.
[5] Ex. 3.

required to file her taxes as a resident or part-time resident.[6] The Division denied Ms. U.'s application again on informal appeal.[7]

Ms. U. requested this formal appeal, reiterating that she was a student in the first part of 2021 when she was in Pennsylvania and that she had to file resident taxes there.[8]

III. DISCUSSION

A person is not eligible for a PFD if they file a "resident or part-year resident income tax return in another state" related to the qualifying year.[9] There are two exceptions: (1) the other state required the person to file a return claiming resident status in that state even though the person is an Alaska state resident; or (2) a person amends their tax return to claim nonresident tax status and provides proof of filing the amended return.[10]

Ms. U. has not met her burden of showing that she qualifies for either exception. She claimed in her appeals that she had researched tax filing in Pennsylvania and that there was no way to file a non-resident return as a student. But the Division provided a copy of a Pennsylvania Department of Revenue Personal Income Tax Guide, which states that a person can file a nonresident tax return if domiciled in another state.[11] The guide further advises that college students generally share the same domicile as their parents, even after becoming a legal adult.[12] The Division further provided copies of the Pennsylvania tax returns Ms. U. filed for 2017 and 2018. She filed non-resident returns for both years, demonstrating that not only can a student file a non-resident return, but that she was aware of this and had done so at least twice in the past.[13] Thus Ms. U. has not shown that Pennsylvania required her to file a resident tax return despite being an Alaska resident.

Nor has Ms. U. submitted any evidence to show that she has filed an amended 2021 return with Pennsylvania to change her resident status. She thus has not met her burden to show that she qualifies for an exception based on an amended return.

[6] Ex. 4 at 3.
[7] Ex. 5.
[8] Ex. 6 at 2.
[9] 15 AAC 23.143(d)(5).
[10] 15 AAC 23.143(d)(5)(A), (B).
[11] Ex. 7 at 4.
[12] Ex. 7 at 5.
[13] Ex. 8, 9.

Ms. U. requested this appeal be heard on written correspondence. The Division raised these issues in its position statement, even suggesting that it might consider a statement of intent to amend her 2021 Pennsylvania tax return. Ms. U. had an opportunity to respond to that statement and provide additional evidence. She chose not to.

IV. CONCLUSION

Because Ms. U. filed a resident tax return in another state for 2021, and because she has not met her burden to show that she qualifies for either exception, the Division's decision is affirmed.

Dated: August 8, 2023

Signed

Rebecca Kruse
Administrative Law Judge

Adoption

This Order is issued under the authority of AS 43.05.010 and AS 44.17.010. The undersigned, on behalf of the Commissioner of Revenue and in accordance with AS 44.64.060, adopts this Decision as the final administrative determination in this matter.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 25th day of September, 2023.

By: *Signed*
Adam Crum
Commissioner, Department of Revenue