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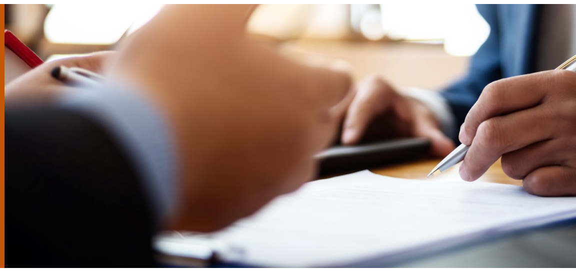

You Should Consider Where You Are a Resident for Tax Purposes – Updated March 2025

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You Should Consider Where You Are a Resident for Tax Purposes

As we approach the third year of the Massachusetts "millionaire's tax" and without any indication of further reductions in the Massachusetts estate tax, many taxpayers continue to wonder whether it would be worthwhile to change their residency to another state. Some states are more tax-friendly than others, which can have a big impact on both income and estate taxes. Before assuming that you have sufficiently changed your residency away from one state and to another, it's important that you understand how states determine who is a resident and how that impacts both income and estate taxes.

Residency Tests – Domicile and Days Test

Generally, a state will tax all the income of a resident of that state. States will usually assert that an individual is a resident if they meet one of two tests – the domicile test or statutory resident test.

Domicile is a person's true, fixed and permanent home, determined by the facts and circumstances of each case. At any one point in time, a person could have multiple residences but can have only one place of domicile, or true home. A person's domicile is usually where they maintain their most important family, social, economic, political and religious ties.

Even for taxpayers who may have successfully shifted their domicile to another state, their former state can still attempt to tax their income if they meet a "statutory residency" test. Many states, including Massachusetts, will consider a person to be a statutory resident if they spend more than 183 days in the state in a tax year and maintain a "permanent place of abode" (meaning a dwelling, whether owned by the taxpayer or not) in the state. This test can come into play if, for example, you move to Florida but keep a second home in Massachusetts where you spend the summers. Likewise, it may be applicable for individuals who reside outside of Massachusetts but continue to work in the state periodically and maintain an apartment or other residence within Massachusetts.

It's important to note that Massachusetts will continue to tax the "Massachusetts source income" of a nonresident, which includes income connected with a trade or business or employment carried on in Massachusetts, even if the income is received after a taxpayer has moved to a new state.

The Importance of Residency on Estate and Income Taxes

Your residency will determine to which states you pay an income tax, but it is also a critical issue for estate taxes. Some states, including Massachusetts, impose an estate tax on the value of a taxpayers' assets at death, in addition to any federal estate tax. The Massachusetts estate tax applies to the entire gross estate of a Massachusetts resident at death, with an exclusion now for the first $2M in assets. It also applies to a taxpayer's real estate or tangible personal property located in Massachusetts at death, *even if that taxpayer died a non-resident, domiciled outside of Massachusetts*.

The existence of real estate or tangible property in Massachusetts requires that the personal representative/executor of the decedent's estate file a Massachusetts estate tax return, including providing detailed information about the circumstances of the individual's domicile. It can come as quite a surprise to learn that an estate is responsible for Massachusetts estate taxes even when the taxpayer left the state decades ago. In some situations this outcome may be avoidable with careful planning, including the potential use of an LLC to hold Massachusetts real estate.

Changing Domicile – the Burden is on You

If you no longer believe you are a resident of a particular state, the burden is on you to establish that you have abandoned your domicile in the old state and established a new residence that you intend to make your permanent home in a different state. High-tax states do not welcome the idea of high-income taxpayers leaving the jurisdiction, and they will examine a claim of a change of domicile closely. There are many factors the state will consider, and they will also dig deeper to make sure your lifestyle is consistent with the location of the new home. Under review, a state will look to your physical calendar to determine where you spent your time. They will review credit card and telephone records, auto and voting registrations, location of bank accounts, and even where the family pet is located to determine whether domicile has truly changed to another state. And remember that the burden is on the taxpayer to establish that they have abandoned an old domicile and obtained a new one. In other words, you have to prove that you have truly relocated.

Your residency for state income and estate tax purposes can have a meaningful effect on your tax burden, and should be given consideration as your living arrangements change. Let us help you be sure to position yourself in the best way.

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