

WHEN LIFE HAPPENS: WORKING REMOTELY THROUGH COVID-19

NEXT NEST SERIES, VOLUME 4

THE CARLSONS, OUR FICTITIOUS FAMILY, ARE BACK

In our last story, James and Jeanne were welcoming their first grandchild and we discussed various gifting scenarios and the impact to them, their children, and future grandchildren. Now, as the Carlsons are preparing for their second son’s upcoming wedding, COVID-19 strikes the country and brings along a multitude of uncertainties, including state and local taxation complexities for people now working remotely.

James and Jeanne’s son, Phil, works as a Technical Project Manager for a software company in New York City and is engaged to Pam, an aspiring photographer, who up until this time was employed with a small boutique photography studio in the city. They had been renting a fully furnished apartment in Manhattan for the past year and were planning a big New York wedding to take place in May of 2020. In March of 2020, stay-at-home orders were mandated for nonessential businesses by the governor of New York.

Phil set up his remote office amidst the open first floor of their New York apartment. Pam was let go from her position after a few weeks’ time showed no financial recovery for the already struggling photography studio that specialized in weddings and large-scale events. Additionally, the couple had to make the difficult decision to postpone their own wedding. It soon became evident that being cooped up in their New York apartment long-term under current conditions was not going to be ideal for them.

The Carlsons offered the couple their vacation beach home in Margate, New Jersey and formalized the move with a lease agreement at a fair rental price to avoid any gifting consequences. The Carlsons had already planned a gifting strategy around the wedding, and all agreed to keep this plan



in place. Phil and Pam were thrilled to make use of the spacious set up at the beach house and enjoyed relaxing dinners together on the patio with an ocean view. Pam filled her days with long walks on the beach and after some time, she created a beautiful portfolio of ocean life photographs.

Phil and Pam had not given much thought to how moving to another state temporarily might impact their state and local taxes. The pandemic worsened and stay-at-home orders were extended. The couple began to wonder –

- How long could they continue to pay rent on their vacant New York apartment? Would they be able to renew their lease in September?
- What were the state income tax implications to their stay in New Jersey? Would they now be considered residents of New Jersey for income tax purposes? Would Phil still need to pay income taxes to New York, or to New Jersey, or possibly to both states? What about New York City?

When stay-at-home orders began to slowly lift in New York, Phil’s employer, having had a positive experience with the

remote employee workforce, was hesitant about bringing their employees back to the office too quickly. Phil adapted well to full-time remote work and was approved to do so indefinitely. With the summer winding down, the couple started discussing where they might like to settle down next. They enjoyed visiting James and Jeanne in their Center City Philadelphia home pre-COVID-19 and gravitated to the trendy Fishtown area often. They had discussed a potential real estate investment there in the past and now decided to revisit the idea. They found a place that they instantly fell in love with. Pam had always wanted to start her own photography business and was delighted with the additional space she could use as a studio. In the meantime, she had found a company that could market her recent prints online for a small sales commission.

What would a subsequent and permanent move to Fishtown mean for Phil & Pam from a state and local tax perspective –

- Will Phil still be required to pay state and local taxes in New York because his employer is located there? If he buys a home in PA, will he have to pay taxes to PA? Will Phil be allowed a credit for taxes paid to other states? Will home office expenses be deductible for Phil?
- What state, local, sales and business taxes will Pam be subject to in PA and Philadelphia? Will she be able to take a home office deduction for the room she will use as a studio?
- What will Phil and Pam need to do to establish PA as their resident state for income tax purposes?

Prior to COVID-19, each state had its own set of rules for out-of-state-workers. Some states allow for reciprocity, meaning the employee pays tax where they live even if they work in another state. Some states mandate tracking the days spent in that state, and still other states apply the 'Convenience of the Employer Rule' to out-of-state-workers, whereby tax is due to the state where the employer resides unless the employee is required by their employer to work elsewhere. The pandemic has only complicated matters with a lack of consistency amongst states on how to handle temporary moves in response to stay-at-home orders. And no one has a crystal ball to determine what things will look like when the pandemic is behind us.

Many people have decided to move to another state altogether. Just because you have moved out of a state does not necessarily mean that state can no longer impose income tax on all your income. The burden of proof is on the taxpayer to prove they have permanently left their old state and have taken steps to objectively prove they established a permanent home in a new state. This describes the concept of your 'domicile' for income tax purposes. And given the increased need for revenues at the state level, some states can be aggressive when trying to prove someone has not permanently left their old state.

One thing that is certain – state income taxation rules are complex, and the increase in the out-of-state-remote workforce has highlighted further complications. If the above scenario sounds familiar to you, then you are not alone. We can help guide you through your situation, plan appropriately and prepare you for your 2020 tax filings to minimize the unknowns.

YOUR FAMILY MAY HAVE SOME OF THE SAME QUESTIONS AND CONCERNS AS THE CARLSONS. IF SO, FAIRMAN GROUP PROFESSIONALS ARE READY TO HELP YOU WITH ALL YOUR FINANCIAL PLANNING NEEDS.

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