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BREAKING UP IS HARD TO DO: THAT FLORIDA HOME MAY NOT SAVE YOU FROM STATE INCOME TAXES

THOUGHT LEADERSHIP PERSPECTIVES

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WHY WOULDN'T SOMEONE LIVING IN A STATE WITH RELATIVELY HIGH INCOME TAXES, LIKE CA OR NY, WITH THE MEANS TO DO SO, BUY A HOME AND CLAIM TO BE A RESIDENT OF FLORIDA?

It's no secret that many people buy property in the Sunshine State, where there is no state income tax, for reasons other than those beautiful beaches. Close to a million people flock to Florida each winter from around the country to avoid the colder weather and return to their homes again come spring. Unfortunately for many snowbirds, the colder weather is likely the only thing they are avoiding for one particularly important reason. They intend to return home again.

Many people are already familiar with the concept of residency when it comes to state income taxes. If you live in Pennsylvania, that means you have the priviledge of filing a Pennsylvania income tax return each year and paying 3.07% to the Commonwealth. Well, what if you bought a home in Florida and spent the winter there? Would that save you from having to pay income tax to Pennsylvania? The answer, as you may have guessed, is a resounding "no". Even if you begin referring to yourself as a Floridian, your home for state income tax purposes would remain Pennsylvania until you have changed your domicile to Florida.

Domicile is a lesser-known concept that goes beyond where you own property or where you spend most of your time and it is essentially intent-based. Domicile is a person's fixed, principle, and permanent home or the place they intend to remain or return to, after being absent. While you can have multiple residences across many states, you can only have one domicile for state income tax purposes.

Some of the factors that support the intent of where someone is domiciled include where they are registered to vote, where they maintain their driver's license, the size and value of the property they own in their domicile state compared to outside that state, where they have a business or employment activity, as well as where they have family and social connections.

The only way to establish a new domicile is to effectively 'break-up' with your current state and sever as many ties or connections as possible while taking steps to establish proof of domicile in the new state.

Many states are searching for additional revenue these days, and we expect them to step up their enforcement efforts in the future. States can and do audit taxpayers who assert a change of domicile, especially if the new state does not impose an income tax. In one high-profile residency audit initiated by New York, the fact that the individual had moved his pets to the new state was the deciding factor. The snowbirds in our example would have a tough time justifying to Pennsylvania they have changed their domicile when they intended to return once the snow thawed.

In addition to the issue of domicile, there are other factors to keep in mind when it comes to state income tax. Many states have 'statutory resident' rules that apply when a person would be subject to income tax for being present in a state other than their state of domicile for a certain amount of time. In some states the statutory resident rules are determined by reference to the '183-day rule' but many states have more opaque rules. This is significant because resident status causes all your income to be subject to state income tax as opposed to only that income earned outside of your domicile state.

This year many people have been either mandated to work remotely from home or have chosen to work from home due to the ongoing COVID pandemic. This has added even more confusion to an already complicated situation with many people having domicile in one state, working for an employer in another state, and possibly even working remotely in a third state. Many states have implemented rules regarding if someone is working remotely for the "convenience of the employer" or "convenience of the employee" to determine if the employer's state would impose income tax on those wages or if the state the employee is physically present in would collect the tax.

IF YOU ARE CONSIDERING A CHANGE IN DOMICILE, WORKING OUTSIDE OF YOUR DOMICILE STATE, OR WORKING REMOTELY, WE CAN HELP MAKE SURE YOU ARE TAKING ALL THE NECESSARY PRECAUTIONS AND PREPARING THE APPROPRIATE TAX RETURNS. OUR ADVISORS AT FAIRMAN GROUP FAMILY OFFICE STAND READY TO HELP YOU.

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