PKF O'CONNOR DAVIES
ACCOUNTANTS AND ADVISORS

State Tax Observations

State Tax Implications for Purchasing, Renting, or Moving to a New Home

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Are you considering purchasing or renting a home in a new state as a second home or "moving" to another state? Since each state has its own set of laws concerning income taxes, proactive planning with your tax advisors can help mitigate any unintended tax consequences.

In determining whether a state will treat a taxpayer as a resident, a state will look at whether the taxpayer is a domiciliary or a statutory resident. To assist with categorizing each of the two conditions, we provide some general information and supporting factors.

Domicile

With respect to domicile, the main focus is the taxpayer's intent. When reviewing intent, states will consider, among other things, the size and use of a dwelling, the location of most of your social, familial, religious and political ties, the location of important personal property such as wedding albums, art works, antiques and family photos, etc. (often called the "Teddy Bear Test") and time spent in each state.

Secondary factors include the state of the taxpayer's driver's license, voting registration, wills and bank and credit card addresses. What matters most is the strength of the ties to the state, not necessarily the number of ties.

Statutory Residency

With respect to statutory residency, besides the requirement that a taxpayer maintain a permanent place of abode, the states have a varying number of days requirement. For example, Massachusetts will consider a taxpayer a full year resident if a taxpayer has a permanent place of abode in MA and spends a total of more than 183 days in the state (perhaps visiting MA for the spring/summer months and holidays or meetings, etc.), whereas Hawaii has an over 200-day requirement. It is important to note that when counting days, even a portion of a day spent in the state is considered a full day in the state.

As evidence, the taxpayer should keep a calendar of the days spent in each state. These records may end up being used in the case of a state residency examination. Auditors will also use records such as telephone logs, credit card statements and EZ-Pass records to piece together where a taxpayer's time has been spent during the year.

Considerations

In summary, the above non-exhaustive list of factors should be considered in reviewing the state's rules on residency taking into account the following possible implications:

- Unintentionally triggering residency based on the number of days spent in a different state at your second/vacation home; thereby creating the possibility of double taxation;
- Working remotely from another state, resulting in an additional state tax return filing;
- Renting a second home would result in the rental income/loss being reported on that additional state tax return;
- Reviewing investments to be sure they still make sense in the new state. For example, if a taxpayer has a large amount of state-specific municipal bonds, it may make sense to update those

investments when moving to a new state depending upon its rate of return and new state income tax;
- Properly allocating income among the states;
- Timing a potential move to minimize tax on future income;
- Reviewing the terms of any trust where the taxpayer is a trustee or beneficiary of a trust; and
- Analyzing the ownership of various assets to be sure a divorce or death does not result in unfavorable consequences.

As noted above, there are many considerations when purchasing or renting a second home in a new state or “moving.” Therefore, it is important to discuss this with your tax advisors early in the process so proper planning and implementation can be done.

Contact Us

If you have any questions regarding these matters, please contact your PKF O’Connor Davies client engagement partner or:

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