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Three Things to Consider When Moving to a Non-Income Tax State

It is all over the news: people are moving out of high tax states in droves, and Florida seems to be the new popular destination. Obviously, the beautiful weather and more relaxed pace are two benefits, but the freedom from state income taxes is also an important consideration. And while the Sunshine State welcomes its newcomers, many newly minted Floridians are finding that their former states are much more reluctant to let them go.

1. Domicile versus Statutory Residency

Most states have two separate tests for determining whether a person is a resident, and therefore subject to tax there. The first test involves one's "domicile." A person can only have one domicile, which is the location of their permanent home, and the place they return to after a temporary absence. It is the center of one's activities. For example, it is where family resides, where children go to school, and where one's community ties are based, such as business activities, medical services, club memberships, sports activities, religious organizations, and volunteer work. It is also where one's most valuable possessions are located, such as family heirlooms, artwork, and even pets, to name a few. These factors are considered all together when determining where one is domiciled.

The other test is referred to as a "statutory residency" test. While one may move their family, valuables, and pets, and may take all of the usual steps to establish residency in another state, the former state will still consider them to be a statutory resident if they maintain a physical dwelling unit in the former state and if they are present in the state for 184 days or more during the tax year. Keep in mind that less than one minute in the state will count as a day of presence for these purposes.

2. Steps to a Bona Fide Change in Residency

When making a move, it is important to commit. You should take all the obvious steps as soon as possible, such as changing driver's licenses, voter registrations, and mailing addresses, as well as moving valuables. If moving to Florida, you should also apply for a homestead exemption on your new Florida home and update your estate planning documents to reflect Florida laws. Set yourself up with new healthcare practitioners and center your community activities within your new home state. If you keep an accessible dwelling place in your former state, make sure to stay out of your former state for more than 183 days in any calendar year. To the extent possible, minimize your ties and travels to your former state, and make sure to keep a daily calendar of where you are on each day of the tax year.

The burden is on you to prove that you are no longer a resident. A residency audit will involve an intrusive search into your personal life, and you will be required to present records of your key fob swipes, for example, as well as itemized cell phone bills, credit card statements, travel reservations, and EZ Pass toll records to name just a few. There are no limits to the level of scrutiny, so excellent recordkeeping and documentation are essential to overcome the assumption that you are still a resident of your old state.

3. Final Consideration

You may win the residency audit, but also beware of the other hidden tax traps surrounding your compensation. For example, that you moved from New York to Florida in 2021. In 2022, you exercise stock options that were granted to you in 2018, while you were still living and working in New York. In this scenario, you will still be subject to tax as a New York nonresident based on the number of days you worked in New York between the date of grant and the date of exercise.

Key Takeaway

Changing residency is not as simple as one would think. Extreme care must be taken and you must have a game plan ready to execute. Be sure to connect with your Cerity Partners financial advisor in the beginning phases of your planning. With their expertise and guidance, you will be better prepared to avoid to avoid the pitfalls that snag the unwary.

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