

Florida Bound: Moving to a Warmer [Tax] Climate

By Helena Jonassen

When the Beatles released *Taxman* in 1966, the band members were subject to tax surcharges as high as 98 percent. Within a few years, the Rolling Stones, the Kinks (who wrote *Sunny Afternoon*, another song about the surprisingly rock 'n roll subject of tax), David Bowie, Cat Stevens, and many others had fled Britain. Americans have never had that option. Unlike those of all other developed countries, citizens and permanent residents of the United States are taxed on worldwide income.

Tax exile in the United States tends to be a domestic affair, as families move from high-tax to low-tax or no-tax states. The differences can be startling – 8.82% personal income tax and up to 16% in estate tax in New York; none in Florida – as illustrated in the sample charts on page 23. Just how important a role personal tax plays in these moves is difficult to measure, as Howard Cure notes on page 13. The real drivers can, of course, include corporate tax advantages, the climate, and recreational interests.

In any case, the tax angle can be a headache. State taxing authorities are increasingly aggressive in challenging moves. Each state has its own rules on whether a taxpayer is subject to their income tax, but most include a count

of how many days the self-declared former resident spends in his or her former domicile, with six months the general line in the sand. In New York, which is losing tens of thousands of people to Florida each year, more than to any other state, according to the U.S. Census Bureau, a person is still considered a resident for income tax purposes if he or she spends 183 days or more in the state.

The more substantial the property, the more intense the scrutiny

While the terms *residence* and *domicile* are often used interchangeably, they have very specific meanings for both income

tax and estate tax purposes, as defined by individual state laws. Residence simply requires physical presence in a state, while domicile requires physical presence in the state and the intent to make that state the fixed or permanent residence. While a person can have a residence in many places, as a general rule, they can only have one domicile.

The more substantial the retained property, the more intense the scrutiny is likely to be. Where are the people and objects that are considered near and dear to the taxpayer? Business and family relationships, children's school attendance, credit card receipts, travel documents, E-Z pass transactions, phone records, vet bills and more; name it and state authorities have probably thought to examine it to verify the taxpayer's assertions.



The burden of proof falls on the taxpayer, not on the state. The individual must be able to show that not only has he or she spent the required time out of the state at another residence but also that the intention is clearly to change the domicile. While there is no bright line test that determines domicile, individuals can draw on all of the same materials in their defense, in the event of a residency audit. Location apps, which use cellular network, Wi-Fi, and GPS technology to determine location, can augment hard evidence.

It should be noted that there is no double jeopardy when it comes to taxation. More than one state could claim that a taxpayer is resident for income tax purposes and likewise could claim that a decedent was domiciled in the state for estate tax purposes. While these instances are rare, residency audits are not – and they are nothing to sing about. Taxpayers who wish to change domicile – for whatever reason or combination of reasons – should

follow a clear protocol (see the checklist page 24), be mindful of the potential traps, keep meticulous records, and seek expert advice.

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Highest Marginal Imposed State Estate Tax Rate

State	Highest Marginal Imposed State Estate Tax Rate	Effective State Estate Tax Rate
California	0%	0%
Connecticut	12%	7.2%
Maryland	16%	9.6%
Massachusetts	16%	9.6%
Minnesota	16%	9.6%
New York	16%	9.6%
Florida	0%	0%

Source: Evercore Wealth Management

Sample State Income Tax Comparative

State	Highest Marginal State Income Tax Rate
California	13.3%
Connecticut	6.99%
Maryland	5.75%
Massachusetts	5.05%
Minnesota	9.85%
New York (state only)	8.82%
Florida	0%

Source: Evercore Wealth Management

Moving to Florida? A Before-Takeoff Checklist:

The Road to a Florida Domicile

Action	Date Completed
File a Declaration of Domicile (not required, but worth doing)	
Obtain a Florida driver's license and relinquish the other state license	
Register automobiles, boats and other vehicles in Florida and relinquish other state registrations and other state privileges (e.g., parking exemptions, resident fishing and hunting licenses)	
Register to vote and then vote in Florida; notify voting officials of the previous residence	
Update estate planning documents to conform with Florida law and declare Florida as the residence	
List Florida as the residence in all deeds and other documents	
Receive mail at the Florida address	
Open a Florida bank account, change credit card accounts to the new address	
Notify the IRS of the address change; use the Florida address in filing the federal income tax return and, if possible, file final tax returns in the state of previous residence	
File as a nonresident tax return, rather than a resident return, as needed, (e.g., New York income tax return if there is New York income)	
Apply for the Florida Homestead Exemption	
Notify the Social Security Administration of the change of address	
Renew passports in Florida	
Register the Florida address as the primary residence with insurance companies and Medicare	
Obtain a safe deposit box in Florida and move valuables to Florida	
Consider acquiring a larger or more expensive home in Florida, or remodeling or redecorating it, and acquiring a smaller or less expensive home, and document any steps taken in doing so	
Transfer works of art, expensive furniture, heirlooms, and other valuable or sentimental personal items to Florida	
License pets in Florida	
Direct all income, pension, dividend and interest checks and other payments to the Florida address or deposited into a Florida bank account	
Notify social clubs of the Florida address for their membership rolls; affiliate with Florida organizations	
Host family gatherings and social activities in Florida	
Stay in Florida as long as practically possible each year	
Use the Florida residence/address whenever possible (such as when registering at a hotel)	
Consider acquiring cemetery plots in Florida	
If move is recommended by a physician due to health concerns, the physician should document the medical issues accordingly	
Consider using Florida professionals	
Abide by the statutory limit for residency (e.g., New York state) and document accordingly. Count your days in new domicile – staying there more than 183 days is very helpful, but staying out of the prior domicile more than 183 days is essential. Vacations count as time away from the new and old domiciles.	

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