PERSPECTIVE

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Take-home pay is bigger in Texas, too

By Robert W. Wood

Considering the high cost of operating in the Golden State, Toyota's move from California to Texas will save big. It is not just the company that will save on taxes and various other costs. Toyota's California-based employees who move also stand to reap big tax savings. After all, while California's tax rate now tops out at 13.3 percent, Texas has no state income tax.

The National Center for Policy Analysis released a State Tax Calculator to show the magnitude of the employee savings by going to no-state-income tax Texas. For some workers, it could be more than a million dollars in tax savings over their lifetimes, according to data from the calculator. Here are some examples the National Center for Policy Analysis produced.

A 30-year-old single California renter earning $75,000 annually could gain an additional $14,909 in discretionary income by moving to Texas; if saved and invested this would amount to $1,513,727 over her lifetime. That is an impressive tally, pumped up by the assumed savings.

Another example: a 30-year-old single earning $100,000 a year in California could gain an additional $14,653 a year in discretionary income by moving to Texas, and $1,487,723 over her lifetime.

Finally, the figures say 40-year-old married California homeowners earning $150,000 a year could gain an additional $2,535 a year in discretionary income in Texas, and more than $209,000 over their lifetime.

The National Center for Policy Analysis notes that it computes the difference in the federal and state income taxes, property taxes and sales taxes one can expect to pay over the rest of one's life when you move from one state to another. The savings and accumulation feature is unique, according to Senior Fellow Laurence Kotlikoff of the National Center for Policy Analysis. See "Does it Pay to Move to Another State?" National Center for Policy Analysis (Sept. 30, 2013).

Moving to a no-tax state can produce impressive savings, yet discussions can become surprisingly political. When a high income earner mentions high tax burdens, it's likely to rub someone the wrong way and come off like sour grapes, no matter how deftly he says it. If the high tax complaint comes from someone who has a lot, it may especially inflame some onlookers.

After Phil Mickelson's gaffe about taxes, the brouhaha eventually died down, helped by Tiger Woods who confessed that he too had left California in part over its high tax rates. Yet that was long before California passed large tax increases in November 2012 that were retroactive to Jan. 1, 2012.

Proposition 30 increased state tax rates for those earning $250,000 to $300,000 a year to 10.3 percent, up from 9.3 percent. For $1 million-plus-earners, California's rate is 13.3 percent, up from a prior top rate of 10.3 percent. By comparison, the combined state and local top rate in New York is 12.7 percent. Combined with federal rates and even sales taxes, the mix is causing some even outside the professional sports stratosphere to think critically about where to live.

If you move, it pays to plan ahead and create a good record. Your old state may try to tax you even after you've left. Some states have presumptions based on your time there, but most state tax authorities and courts examine many connections. You may be a resident even if you also have substantial connections with another state.

California often pursues those who leave for taxes, especially if they exit right before a significant income event. If you are selling a business, your company is doing an IPO, or you are receiving a large legal settlement, do not assume you can quickly move and avoid all California tax.

A California resident is anyone in the state for other than a temporary or transitory purpose. See FTB Publication 1031. Plus, it includes anyone domiciled in California who is outside the state for a temporary or transitory purpose. The burden is on you to show you're *not* a Californian.

If you are in California for more than nine months, you are presumed a resident. If your job requires you to be outside the state, it usually takes 18 months to be presumed *no longer* a resident. Your domicile is your true, fixed permanent home, the place where you intend to return even when you're gone. Do you maintain a California base in a state of constant readiness for your return?

You can have only one domicile, and it depends on your intent. How do you measure intent? Objective facts, and many are relevant. Start with where you own a home. If you own several, compare size and value. Consider whether you claim a homeowner's property tax exemption.

Where your spouse and children reside count, as does where your children attend school. If you claim not to be a California resident, make sure you are paying non-resident tuition for college students.

Your days inside and outside the state are important, as is the purpose of your travels. Where do you have bank accounts and belong to social, religious, professional and other organizations? Voter registration, vehicle registration and driver's licenses provide considerable evidence as well.

Where you are employed is key. You may be a California resident even if you travel extensively and are rarely in the state. Where you own or operate businesses counts, as does the relative income and time you devote to them. You can own investments anywhere, but expect the magnitude of California versus other investments to be compared. The FTB has been known to contend that a preponderance of California-based investments moves the needle toward California residency.

Where you obtain professional services matters, including doctors, dentists, accountants and attorneys. Fortunately for California tax advisers, the mere fact that you hire a California tax lawyer to advise you about your California tax exposure does not make you a resident.

Many of these points may not be too worrisome one by one. Yet they have a cumulative effect. If you leave California, the clean break of selling your residence is best. Alternatively, at least rent it out on a long-term lease. And do not think that getting a post office box in Nevada is enough to suggest that you are a Nevada resident. Clearly, it is not. You will end up with bills for taxes, interest and penalties or worse.

Like other high tax states, California is likely to pursue you and probe how and exactly when you stopped being a resident. Some states have presumptions based on your time there. But beyond rigid rules, most courts and state tax authorities look at many other connections. If the connections appear substantial, you may be a California resident even if you also have significant connections with another state.

Even if you successfully shed California residency, some income could still be taxed here. For example, compensation paid to an employee working in California is taxable there even if the worker is no longer a resident when paid. That's one reason it's wise to get some advice and be realistic.

If the stakes are big enough and you plan carefully, you can come out a winner. But no matter how carefully you plan, most people don't sever all connections. Viewing your situation critically and strategically is important. Even if California pursues you, if you have planned carefully you may be able to resolve any resulting dispute for a fraction of the taxes sought.

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