Forbes

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THE TAX LAWYER

TAXES 12/29/20

California Lost Elon Musk, Will 13.3% Tax Or Increases Get You?

Most of us could use some good news these days, so here is a little. Two highly controversial tax bills pending in California appear to have died on the vine, at least for now. Technically, with the legislative session ending in the Golden State, they would need to be re-introduced to face a vote and pass. AB 1253 would have increased California's already stratospheric 13.3% income tax rate to 16.8% on some high income individuals—retroactive to January 1, 2020. The second bill, AB 2088, would impose a .4% *wealth* tax. A summary of the wealth tax bill says it "establishes a first-in-the-nation net worth tax, setting a 0.4% tax rate on all net worth above $30 million." California Assembly member Rob Bonta, D-Oakland, proposed it to apply to the net worth of about 30,400 Californians, "raising approximately $7.5 billion annually," the summary claims. "The tax takes into account all assets and liabilities held by an individual, globally, capturing the immense levels of accumulated wealth held by the top 0.1% of Californians."

Billionaire Tesla TSLA -0.3% CEO Elon Musk, now a Texan, may dislike many California taxes and regulatory policies, but the wealth tax in particular has few fans. The proposed wealth tax would apply to residents, part-year residents, *and to any person who spends more than 60 days in California in a year*. The latter might not even be constitutional. If you were ensnared by the wealth tax, there would be a "tail" requiring you to keep paying for ten years. The wealth tax was to be based on the person's current world-wide net worth at the end of each calendar year. The tax would be proportionate for part-year and temporary residents based on the number of days they spent in California. There would be administrative nightmares too. The Wall Street Journal recently called the proposal a plan to chase away the rich and then keep stalking them. How do you determine the value of everything you own?

For example, what about stock options in private companies? You might say one figure, and the notoriously aggressive Franchise Tax Board might say something quite different. Of course, wealth tax aside, high taxes in California are nothing new. The state already has a highest-in-the-nation 13.3% top rate, and another tax bill would have raised it to 16.8% retroactively. The end of the legislative session means this bill would need to be reintroduced and pass before it could add another 1% tax on income over $1.1M, another 3% tax on income over $2.3M and another 3.5% tax on income over $5.9M. California's highest rate would be 16.8%. Assembly Bill 1253 could cause some Californians to hop in their Teslas and head for Texas, Nevada, Washington, Wyoming or Florida.

Many who leave California have a hard time with a state tax audit later. Depending on how you handle it, sometimes saying goodbye to California taxes can mean saying hello to a residency audit. Moving sounds easy, but if you aren't careful how you do it, you could end up being asked to keep paying California taxes. California has a broad reach into other states, and in some cases, California can assess taxes no matter where you live. Your exposure to audit can also be frightening. The IRS can audit 3 or 6 years, but California can sometimes audit *forever*. There are numerous special rules to know too, and when fighting California tax bills, procedure counts. Despite the difficulties, the fact that the already sky high top 13.3% rate could be raised to 16.8 retroactively could cause some people to follow Musk's tracks.

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