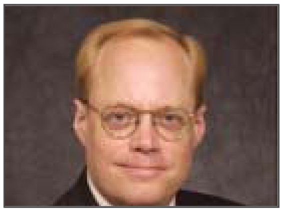

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Moving States To Beat The Tax Man?

Before you sell your company, settle a lawsuit, or experience a big cash event, you might be planning how much you'll collect. A sale or a move may also be triggered by illness, death, job or family needs. Whatever the primary impetus for a move, taxes matter.

And whatever the occasion, it's only natural to tally up how much you'll pay the IRS and state government when your payday comes in. Moving might save you a lot but there's no substitute for actually running the numbers. They will be most impressive if you move from a high tax state like California or New York to one without an income tax. Attractive states in the latter category include Nevada, Florida, Texas and Washington.

But moves should be permanent. States often try to collect taxes from those who say they have left. In some cases the dispute is over whether the person is still a resident. In others, it is just about timing, whether one of several dates is the date the person ceased to be a state resident.

Some residency cases are mostly about state death taxes. For example, an aging dowager in New York had kids and grandkids out West. New York had a whopping estate tax, and that was a big reason to move before she died. A key legal issue was whether she intended to return. The case eventually settled, but for a fraction of what New York was trying to collect.

Another example involved a company founder who left California right before his company went public. He took some steps toward a *bona fide* move, but kept his old residence and left a teenager there to finish school. He also came back to California too frequently. He battled with the state over time inside and outside California, and other connections. The case eventually settled for a fraction of the total tax California wanted.

Factors in Determining Residency. Many states have a set of presumptions based on the amount of time you spend in their state. But beyond rigid rules, most courts and state tax authorities look at many other connections too. If the connections appear substantial you may be a resident even if you also have substantial connections with ***another*** state. Consider such factors as:

- Amount of time in versus out-of-state;
- Location(s) of your spouse and children;
- Location of your principal residence;
- Where your driver's license was issued;
- Where your vehicles are registered;
- Where you maintain any professional licenses;
- Where you are registered to vote;
- Where you are employed;
- Location of banks where you have accounts;
- Location of your doctors, dentists, accountants, and attorneys;
- Location of your church, temple, professional associations, social and country clubs;
- Location of your real property and investments;
- Location of your business interests;
- Where your children attend school;
- Where you file tax returns;
- If you claim a homeowner's property tax exemption;
- Any official statements of residency (such as on a federal tax return); and
- Any listings in state directories (phone, professional, etc.).

Nonresident Income. Even if you successfully shed your state's residency, some income could still be taxed by your former state. 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. They may still be vulnerable to paying tax in the state they've left.

Viewing your situation critically and strategically is important. Even if your state comes after you, if you have planned carefully you may be able to resolve any resulting dispute for a fraction of the taxes being sought.

You can reach me at Wood@WoodLLP.com. This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.