What to Expect in a New York Residency Audit

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STATE & LOCAL TAX PRACTICE GROUP

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A message from Hodgson Russ

Over the years, we have been called upon to help hundreds of clients navigate the murky waters of a New York residency audit. The process tends to be long and arduous. Every client, no matter how sophisticated, has questions and concerns.

This booklet was written to give you an overview of the process and the law behind it. We hope you find it helpful.

We will be happy to answer your questions. Please don't hesitate to call us or any member of our State and Local Tax Practice Group.

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What to Expect in a New York Residency Audit

A New York State residency audit is one of the most difficult, intrusive, and document-intensive of all personal income tax audits. Your Hodgson Russ attorneys will try to make the experience as painless as possible for you. We will be able to do a better job if you know what to expect and why we are asking for so much information. Remember, the burden of proof is on the taxpayer and the evidence must be "clear and convincing."[1] We will need a lot of supporting evidence to prove your case.

What is a residency audit?

A residency audit is designed to determine whether you were correct in filing your New York personal income tax return as a nonresident or part-year resident or, instead, should have filed as a resident. Because New York residents are subject to tax on their worldwide income while nonresidents are subject to tax only on that portion of their income attributable to ("sourced to") New

[1] *Bodfish v. Gallman*, 50 AD2d 457.

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York, the difference in tax liability can be significant, particularly if you have substantial investment income.

If there is a possibility that you were also a New York City resident, the difference in potential tax can be even more significant since New York City residents also pay tax on their worldwide income while New York City nonresidents pay no tax to the City at all, even if they work there.

The residency audit will also examine the amount of income you allocated to New York and whether it was calculated correctly.

Residency audits rarely examine the underlying components of a tax return—the income and deductions reported—although these items may be reviewed if the auditor so chooses.

How is residence determined?

The auditor will first attempt to establish whether you are **domiciled** in New York:

A domicile audit usually concerns itself with change — did the taxpayer move into or out of New York during the audit period? If you have never been a resident of New York and own no property in the State, the domicile audit will likely end with the auditor requesting a minimal amount of documentation to confirm your residence outside of the state. If, however, you have moved into or out of New York, or if you maintain a residence in New York, the auditor will understandably need more information.

A domicile is the place "where the taxpayer has his/her true, fixed, permanent home. The domicile is the principal establishment to which s/he intends to return whenever absent. … Once established, a domicile continues until the person in question abandons the old and moves to a new location with the bona fide intention of making their fixed and permanent home in the new location. To effect a change of domicile, there must be not only intent to make such a change but also actual residence at the new location. …

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Residence without intent to remain does not effect a change of domicile no matter how long the residence is continued."[2] A person who is domiciled in New York is liable for personal income tax without regard to the amount of time s/he may spend in the State.[3] In short, it is entirely possible for a person to be domiciled in New York who neither maintains a residence in New York nor spends a significant amount of time in New York.[4]

Because domicile concerns itself with feelings and intentions, it can be somewhat difficult to quantify. The state has developed guidelines to assist the auditor in making his/her determination. Under the guidelines, the auditor is instructed to analyze the taxpayer's lifestyle using five factors to determine where the domicile is located. The auditor is then advised to prepare a "T chart" listing each factor in the New York or non-New York column depending on where the weight of evidence places it.

The guidelines caution the auditor: "No single primary factor is determinative." The factors are intended to be taken as a whole to guide the auditor in an understanding of the taxpayer's intent. Nevertheless, it has been our experience that an auditor will

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[2] 2009 Nonresident Audit Guidelines, State of New York - Department of Taxation and Finance, Income Franchise Field Audit Bureau.

[3] Except in certain special and limited circumstances (see discussion of nonresident domiciliaries, below).

[4] Matter of *Haney*, DTA 806889.

sometimes focus on one factor to the exclusion of all others if s/he believes that factor conclusively proves New York domicile.

> *Each case is unique. We will develop a thorough understanding of your life before we present any information to the auditor. In doing so, we will assemble the most helpful information and direct the auditor's attention to facts and circumstances that are important to you and that illustrate your intentions.*

These are the five factors:

1. **Home**. The home factor reviews the use and maintenance of the New York residence as compared with the nature and use patterns of the non-New York residence. In other words, do you behave as though the non-New York residence is your home? This is particularly crucial when a New York residence is acquired by a taxpayer whose domicile is in another state or a residence in New York is retained after a move to another state. It is important to realize that "home" in this context does not refer only to a dwelling place. It may refer also to a community. Thus, an auditor may question a person's intent to change his domicile if he acquires or continues to maintain a residence in his old neighborhood after he purchases a new home in another state.

We will need to know which residence was owned or occupied first. Is one owned but the other a rental? What is the value and size of each residence? What actions did you take to remove yourself from the old community? Have you established roots in the new community? Where do your children go to school? Where does your family spend holidays and special occasions? Is one residence used seasonally while the other is used year-round?

We will probably ask you to produce closing statements and/or leases, moving bills, insurance policies, and descriptions of the properties. If your children are in school, we will need confirmation of their enrollment. We may ask for photos of the properties, particularly photos showing family gatherings. We will need to know where you receive your mail, where your cars and boats are registered, where your doctors and dentists are located, and the address of record you've used for your will or other legal documents. We will also ask for proof of your voter registration and a copy of your driver's license as well as any other documents that might help us establish which location you treat as your home.

2. **Active business involvement**. This factor considers your pattern of employment and the compensation you derive from that employment. It will also examine your active business involvement other than employment.

> *We will need to establish where you actually work on a day-to-day basis as well as the location of your primary office. If you are a partner or shareholder in a New York business, we will need to establish your level of participation in the day-to-day management of the business.*

3. **Time**. The *Guidelines* expect a taxpayer to spend more time at home than in New York. We will ask you for documents to help us prove where you spend your time. If you are a "snow bird" (for example) who only travels between New York and Florida once each year, it should be fairly easy to establish where you spend your time. If, however, you are like the majority of our clients, you probably travel extensively, either for work or for pleasure, and the process of documenting your location can be quite exacting.

> *We will probably ask for copies of your diaries or appointment books, expense reports, statements from all your credit cards, phone bills, frequent flyer statements, passport, and other similar documents. If you do not have these available, we will help you obtain them or will obtain them for you.*

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4. **Near and dear**. The auditor will investigate the location of those items that are of significant value to you. While these items may have an established monetary value, such as art collections, they are just as likely to be items of sentimental value. They are "those personal items which enhance the quality of lifestyle."[5] We will ask you about those items that are of special importance to you. We like to call this the "teddy bear" test because it identifies the things that make us feel as warm and safe as our teddy bear once did. These are the things it just wouldn't be "home" without.

The moving bills you provide in connection with the "home" factor will probably include your near and dear items. If, however, there are no moving bills for these items, we will work with you to identify them and to show that they have been moved from one location to another. Often, we will use "before" and "after" photos from the old home and the new home for this purpose.

5. **Family**. Historically, the family factor has referred only to spouse or partner and minor children. Occasionally, though, the location of other family members (siblings, parents, etc.) may be determinative in a person's choice to change domiciles.

[5] 2009 Nonresident Audit Guidelines, State of New York - Department of Taxation and Finance, Income Franchise Field Audit Bureau.

If the auditor is convinced that you are not domiciled in New York, s/he will attempt to determine whether you are a **statutory resident** of New York.

Although once it is established, domicile continues indefinitely. Statutory residence is an issue that may be examined every year, as long as you maintain a permanent place of abode in New York.

A "statutory resident" is one who "is not domiciled in this state but maintains a permanent place of abode in New York State and spends in the aggregate more than one hundred and eighty-three days of the taxable year in this state."[6] Please note that these are two *entirely separate* requirements; a statutory resident must both *maintain a permanent place of abode in New York* **and** *spend more than 183 days in New York.*

> *We usually give the example of a taxpayer who lives in Connecticut, works every day in Westchester County, and owns a ski lodge at Lake Placid that he uses for about 12 weekends each year. Under the definition of "statutory resident" that taxpayer could be taxable as a resident of New York State because he maintains a permanent place of abode in New York and he spends more than 183 days in*

[6] *Ibid.*

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New York despite the fact that the ski lodge and the taxpayer's presence in New York for work are not related.

On the other hand, because these are *entirely separate* tests, a taxpayer who does not meet both tests will not be considered a statutory resident of New York.

The first requirement—maintenance of a permanent place of abode—breaks down into three parts. The permanent place of abode must qualify under all three parts:

1. **The place of abode must be "a dwelling place."** This means that it must be suitable for human habitation throughout the year. A rustic hunting camp lacking running water and heat, for example, would not qualify. The ski lodge in our example above is a dwelling place because it has central heat and full kitchen and bath facilities. Note: The "dwelling place" does not need to actually be used all year to meet this test—it only needs to be available for use and suitable for human habitation. Further, if the place of abode becomes uninhabitable by the taxpayer's own actions (he turns off the water, for example), it still meets the criteria of a "dwelling place."

2. **The place of abode must be "maintained."** The Tax Tribunal defines "maintains" this way: "One maintains a place of abode by doing whatever is necessary to continue one's living arrangements in a particular dwelling place. This would include making contributions to the household, in money or otherwise."[7]

[7] Matter of *Evans*, TSB-D-92-(16)-I.

If someone other than you pays all of the expenses for your New York residence, you are still considered to be maintaining it if it is used exclusively by you or if you have free and unlimited access to it. An apartment leased by a friend will still be considered your permanent place of abode if you have free and unlimited access to it. A corporate apartment held exclusively for use by a top executive is considered to be maintained by that executive. If, however, a company maintains a corporate apartment that is used by many people, that apartment would not be considered the permanent place of abode of any one person. The taxpayer under audit would, however, need to prove that the apartment was regularly used by more than one person, usually by providing logs or other proof that arrangements must be made in advance for the apartment's use.

> *Historically, hotel rooms were not considered permanent places of abode because they were transient by definition and lacked cooking facilities. Recent cases, however, have examined the use and nature of hotel rooms. Hotel rooms or suites that are occupied by one person on a long-term basis are no longer automatically excluded as permanent places of abode*.[8]

3. **The place of abode must be maintained for substantially all of the year.** While this was once a "bright line" test of 11 months, recent cases have begun to interpret "substantially all of the year" on a more individual basis. The court has, for example, asked whether a taxpayer might have had use of his New York residence for more than 11 months if he had not deliberately delayed moving in. The court has been especially disapproving of taxpayers who rent their New York residences for one month every

[8] TSB-A-02(7)I.

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year. The court has seen these activities as specifically intended to evade the "substantially all of the year" test.[9]

> *If you buy a New York apartment in March, there will be no question that you did not maintain the residence for substantially all of the year. If, however, you bought the apartment in January but decided to have it painted before you moved in, your February 15 move-in date might not be enough to persuade an auditor that you did not maintain the apartment for substantially all of the year.*

The second requirement for statutory residence—spend more than an aggregate of 183 days of the taxable year in the State (and in the City, if City residence is an issue)—is often the most difficult and frustrating aspect of a residency audit. To begin with, the "183-day" test does not apply to full days. "Days" for this purpose is parts of days—any part of a day is equal to a full day in New York. So, for example, if you wake up in your New York apartment on Saturday morning, drive to Atlantic City for the weekend and return to New York after dinner Sunday evening, you still have two days in New York (you woke up in New York on Saturday and you went to sleep in New York on Sunday). The burden of proof is on the taxpayer and unidentified or undocumented days are counted as New York days.

[9] Matter of *Brodman*, DTA 818594.

The guidelines do instruct auditors to be reasonable. If the taxpayer has established that he was in Florida on Tuesday and Thursday, for example, the auditor should concede that the taxpayer was in Florida on Wednesday, absent any evidence to the contrary. At one time, auditors were instructed to assume that taxpayers were at home on weekends or holidays, barring documentation to the contrary. Under the new *Guidelines*, though, that assumption is no longer made. Our recent experience is that auditors are requiring some evidence that the taxpayer "went home" for the weekend - particularly in cases of taxpayers who work in New York and live in one of the border states.

> *The documentation we will request for this test is much the same as for the "time" factor of domicile: appointment books or calendars, expense reports, credit card statements, frequent flyer statements, passports, telephone bills, etc. This test is, however, much more difficult because it concerns itself with parts of days rather than patterns of behavior. We will investigate every possible source for documentation of your whereabouts. You may be surprised by what we turn up.*
>
> ***We think it's appropriate to stop here and talk a little about privacy. You will, no doubt, have realized by now that a residency audit is almost unbelievably intrusive. We will ask you to give us access to all aspects of your life, including some that you might not be inclined to share. We want to assure you that the attorneys and staff at Hodgson Russ have seen it all before. We will be discreet among ourselves, when speaking with your staff, and when presenting documents to the auditor. If there is some aspect of your life that may need extra discretion, please do not hesitate to discuss it with us. We are, after all, your attorneys and your advocates, and are bound by an ethical duty to maintain your confidences.***

Special circumstances affecting domicile and statutory residence:

There are special circumstances in which the rules we have discussed above do not apply.

Special circumstances for taxpayers who are domiciled in New York but spend very little time in the state:

There is a special and limited provision in the New York tax law under which "nonresident domiciliaries" are granted tax relief. These are persons who are domiciled in New York and meet one of two tests. They are:

The "30-day" test. This will apply to taxpayers who (1) do not maintain a permanent place of abode in New York for any part of a tax year, (2) do maintain a permanent place of abode outside of New York for all of the tax year, and (3) spend no more than 30 days in New York during the tax year.

The "548-day" test. This will apply to taxpayers who (1) are present in a foreign country on 450 days of any 548 day period; (2) are not present in New York for more than 90 days of the same 548-day period (and whose spouse and minor children are not present in New York for more than 90 days of that same 548-day period[10]); and (3) whose presence in New York during any portion of the 548-day period that is less than a full year will be in the same proportion to the total number of days in the short period as 90 is to 548.

[10] Until 2009, this provision stipulated that the spouse and/or minor children could not be present for more than 90 days in a permanent place of abode maintained by the taxpayer.

Note: "Days" for these tests are the same as "days" for statutory residence. Any part of a day in New York counts as a full New York day.

Special circumstances for statutory residents:

1. Until November 2008, a taxpayer who was present in New York for a temporary stay for the accomplishment of a particular purpose was deemed not to have maintained a permanent place of abode in New York even if s/he acquired a New York residence and was present in New York on more than 183 days. The definitions and requirements were very narrow. This provision of the law was eliminated in a November 2008 amendment to the Tax Law. The provision remains in effect for years before 2008.

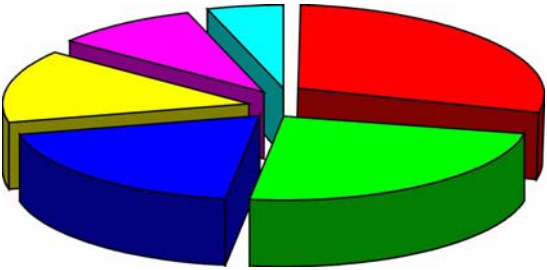
2. Presence in New York is disregarded if it is solely for boarding a plane, train, ship, or bus for a destination outside of New York or if it is a continuation of travel begun outside of New York. For example, if you depart from Connecticut and drive through New York to Maine, your time in New York is not considered for statutory residence day count purposes. If however, you leave the highway to have dinner, the day could become questionable.

3. Treatment in a New York medical facility is not counted as days in New York for statutory residence purposes. This is in-patient care; treatment as an out-patient still counts as a day in New York[11]. Until recently, auditors seemed to recognize that medical treatment is changing much faster than the tax laws and tended to look at outpatient days on a case-by-case basis. The new *Guidelines*, though, seem to prohibit any such flexibility.

[11] *Matter of Kern*, 240 AD2d 969

Allocation

After you have cleared the hurdles of both domicile and statutory residence, the auditor may turn to the issue of allocation. If you have filed as a nonresident or part-year resident, you have probably allocated some portion of your earnings to New York. The allocation portion of the audit will attempt to determine whether the allocation you reported is correct.



A person who works in a state different from the one in which s/he resides must allocate his or her income based on the state where such income is earned. Both the jurisdiction where you are resident and the jurisdiction where the income is earned are entitled to tax that income. The jurisdiction of residence, however, must provide a credit for income tax imposed by the source jurisdiction to prevent double taxation.

For example, if you live in New Jersey and work in New York, you will pay New York tax on your wages earned in New York. You will also pay New Jersey tax on your worldwide income which includes the New York wages. New Jersey should then allow you to take a credit for the New York tax paid. The credit is limited to the amount of New Jersey tax you would have paid on that same income.

Allocation becomes somewhat more complicated for taxpayers who travel on business or who work in two or more locations for the same employer. If this is your situation, we will prepare day count schedules illustrating your work location each day.

> *The documentation we will request for this test is much the same as for the "time" factor of domicile and for statutory residence: appointment books or calendars, expense reports, credit card statements, frequent flyer statements, passports, telephone bills, etc. This test, however, is not the "all or nothing" of statutory residence—work days may be split between two locations.*

The primary difference between the allocation and statutory residence day count is that allocation day count must not only identify the taxpayer's location but must also identify the *reason* for the taxpayer's presence in that location. Under current legal interpretations, in order for a day to be considered a work day out of New York, the work must be for services which "because of *the necessity of the employer*, obligate the employee to out-of-state duties in the service of the employer. Such duties are those which, by their very nature, *cannot be performed in New York State*."[12] For example, if your employer requires you to visit customers in another state, the days you are working in the other state would be counted as days worked out of New York. If, on the other hand, your employer permits you to work from home one day each week, those days at home may not qualify as days worked out of New York for allocation purposes because the time worked out of New York is for your convenience.

> *This is an issue that has been litigated extensively. In virtually every case, the issue is not whether the employee was **permitted** to work at home or even whether he was **encouraged** to work at home. The issue has been whether the employee **could have** performed the same duties in the New York office. If the work could have been performed in the New*

[12] 2009 Nonresident Audit Guidelines, State of New York - Department of Taxation and Finance, Income Franchise Field Audit Bureau.

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York office, the work day has been treated as a convenience day, i.e., a day worked in New York.[13]

We anticipate that this issue will continue to be litigated because telecommuting is changing the way that companies do business. For the present, though, the convenience rule remains in force.

Generally, it will be necessary to prove that all days worked out of New York were at the necessity of your employer. In most cases, expense reports will establish the business purpose. If no expense reports were submitted, diaries listing the names and addresses for appointments out of New York may be sufficient to establish the work purpose of travel.

If expense reports were not submitted or are not available and diaries are not available, we will work with you to determine what evidence might be appropriate to establish the work purpose of your travel.

After the total days worked in and out of New York have been determined, total wages are multiplied by a fraction composed of total New York work days divided by total days worked everywhere to arrive at the amount of wage income allocated to New York.

Allocation of other income reported on your form W-2

Pensions and annuities. Qualified pension or other retirement plans and annuities are not taxable for nonresidents of New York, assuming they meet the tests for qualified plans.

[13] Matter of *Zelinsky*, 1 NY3rd 85; Matter of *Huckaby v State Division of Tax Appeals*, 92539.

Bonuses. Bonuses earned in one year but paid in the next are allocated on the same basis as the wages earned in the year for which the bonus was paid. In other words, a bonus earned for 2008 but paid in 2009 will be allocated on the same basis as your 2008 wages.

Termination pay. Termination pay will generally be allocated using the New York work days for the current and three prior years as a basis.

In 2010, the New York tax law was amended to impose tax on previously exempt types of termination-based income, including severance pay and covenants not to compete. These rules apply to payments made on and after January 1, 2010 but do not apply to prior years.

> *These are extremely complex issues which cannot be adequately addressed here. If you have received income which might qualify as surrender of contractual rights or a covenant not to compete we will need to examine your employment contract and your separation agreement.*

Exercise of stock options, restricted stock and stock appreciation rights. The exercise of nonqualified stock options and the lapsing of restrictions on stock awards or stock appreciation rights are generally reported on form W-2 and are taxable to a New York nonresident using a special method for allocating days worked in and out of New York based on work days from date of grant to date of vest (or last day or employment, whichever comes first). This is referred to as the "allocation period."[14] Even if you were a resident of New York during some portion of the allocation period, you will still be permitted to allocate your stock option income based on days worked in and out of New York if you were a nonresident at the time of exercise.

[14] TSB-M-07(7)I

Determination of the allocation of income derived from the exercise of stock options requires the preparation of day count schedules for each year of the allocation period. This can often amount to several years. We will ask you to provide your diaries and/or expense reports for each of the years in the allocation period, just as we asked for these same items to help us calculate the allocation percentage for your current year wages. We will also ask for the statements of stock option income provided by your employer at the time you exercised the options to document the dates granted and the dates vested as well as the ordinary income portion of the exercise.

Other income attributable to New York

Income derived from the ownership of any interest in real or tangible personal property; income derived from a business, trade, or occupation carried on in New York; and income from intangible personal property to the extent that such property is employed in a trade, business, profession or occupation carried on in New York is considered earned in New York and, thus, taxable.

In 2009, New York enacted legislation redefining "real property located in this state" to include an interest in a partnership, limited liability company, S corporation and closely held C corporation owning real property in New York State if the value of the real property exceeds 50% of the value of all assets in the entity.

I understand everything you've just explained, but . . .

How long is this audit going to take?

Residency audits tend to be slow processes. The accumulation and analysis of the documents can take months. Auditors cannot be hurried in their review of documents. Discussion and negotiation can drag on for weeks or longer.

Did you say "negotiation?"

Yes. Many audits are resolved for less than 100% of the tax that might otherwise be due. Our ability to negotiate a resolution will depend in large part on the quality of the documentation available.

Will I be charged interest on any tax that is due?

Yes. In most circumstances statutory interest will be added to any tax liability determined as a result of the audit. It cannot be reduced or negotiated. Interest rates change quarterly but have been generally in the 6% - 7.5% range in recent years.

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Will penalties be assessed?

New York tax law provides for the imposition of penalties for failure to file, failure to pay, substantial understatement of income, and/or negligence. During the negotiation process, we will always pursue the abatement of such penalties as a condition for settlement of the case.

How will this affect my federal return?

A New York residency audit generally does not affect the federal return for the year under audit. However, any New York tax you pay as a result of this audit may be deductible on your federal return for the current year, if you itemize your deductions and are not subject to alternative minimum tax.

If I am subject to federal alternative minimum tax, will I lose all benefit of a potential federal deduction for New York tax paid?

Not necessarily. As part of our negotiations, we are often able to structure an agreement under which the taxpayer pays part of the tax in the current year and part of the tax in the next year. This often makes more of the New York tax usable as an itemized deduction.

Does a residency audit have any impact on estate taxes?

It can. A determination that a taxpayer is domiciled in New York applies to income and, potentially, estate taxes.

How will the New York audit affect my home state tax return?

We may advise you to file a protective refund claim with your home state to keep its statute of limitations open until the New York audit is concluded. Then, some of the additional New York tax paid may be used to claim a credit from your home state for taxes paid to another state. This is not a dollar-for-dollar calculation and will be limited to the amount of tax you actually paid to that state on the New York income as well as that state's rules with respect to allocation of income and other items.

What about next year?

Domicile, once determined, remains the same until you take some action to change it. If domicile is the only issue of your audit, and the auditor agrees you are not domiciled in New York, there should be no subsequent audit unless you relocate to New York or take some other action that might be construed as relocating.

Statutory residence stands alone. It can be examined every year. As a practical matter, though, our experience has been that a taxpayer who has proven s/he did not spend 183 days in New York during the audit period will probably not be audited again for several years. A taxpayer who was unable to prove that s/he did not spend 183 days in New York during the current audit period will almost certainly be audited again for the subsequent years.

Allocation may be reviewed every year. In our experience, if a taxpayer proves that he has allocated correctly in his current audit period, the likelihood of a subsequent audit is greatly reduced.

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We hope that we have provided you with a useful overview of the New York residency audit process. We will work closely with your accountants to achieve the best possible result for you. Please don't hesitate to call us at any time to discuss your questions or any issues related to your audit or future tax planning.

In accordance with Internal Revenue Service Circular 230, we advise you that unless otherwise expressly stated, any discussion of a federal tax issue in this communication or in any attachment is not intended to be used, and it cannot be used, for the purpose of avoiding federal tax penalties.

State & Local Tax Practice Group

The internationally recognized attorneys of the Hodgson Russ State and Local Tax (SALT) Practice Group focus on state and local tax matters and offer our clients unparalleled experience in all New York State and City tax issues. The Group's attorneys are also well-versed in multistate, international, and cross-border tax matters. From planning and compliance to litigation and damage control, the SALT Group attorneys will provide legal solutions specifically tailored to meet your business requirements.

Hodgson Russ attorneys can help you navigate the murky waters of an audit, from sales and use taxes to personal income to corporation income and franchise taxes. No matter where you are in the audit process, be it initial contact or collections, the Hodgson Russ SALT Group can help you achieve a satisfactory resolution.

You can reach us in New York City at 800.232.0526 or 212.751.4300, and in Buffalo at 800.724.5184 or 716.856.4000.

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Meet the Hodgson Russ State & Local Tax Practice Group

Paul R. Comeau has practiced New York tax law since 1973. While working primarily from our New York City office, he is the partner in charge of our Palm Beach, Florida, tax practice. He lectures frequently on tax topics of importance to business executives and high-net-worth individuals.

William J. Comiskey is the partner in charge of our Albany SALT practice and heads up our NYS tax False Claims Act practice. He also represents professionals and businesses in white-collar fraud cases and in licensing matters involving accountants, physicians and other licensed professionals.

Christopher L. Doyle is the partner in charge of the firm's Toronto-based tax practice, including all New York/Toronto tax initiatives. He lectures frequently and is a past instructor of Tax Practice and Procedure at the University at Buffalo School of Management.

Mark S. Klein is the partner in charge of our New York City-based tax practice. He has approximately 30 years of experience with federal, multistate, state, and local taxation. He lectures frequently and has written numerous books, articles, and treatises on the subject of multistate taxation.

Timothy P. Noonan is the partner in charge of our tax dispute resolution practice. He concentrates his practice on New York State and City tax matters. Mr. Noonan lectures frequently on New York State and multistate tax matters, and he is the author of numerous articles.

Joseph N. Endres counsels clients on a wide range of state and local taxation issues and represents taxpayers in disputes with the New York State Department of Taxation and Finance and the New York City Department of Finance.

Joshua K. Lawrence concentrates his practice in tax law with a focus on New York State, New York City, and multistate tax issues. He recently co-authored articles on topics that include statutory residency audits and New York's "Amazon Law."

Elizabeth Pascal concentrates her practice in tax law with a focus on New York State, New York City, and multistate tax issues. Prior to joining Hodgson Russ, she served as an intern for Judge William Skretny in the Western District of New York.

Lance E. Rothenberg assists clients facing a wide range of multistate tax issues, including corporate income and franchise tax, sales and use tax, and personal income tax, as well as federal income tax issues.

Andrew W. Wright assists clients in disputes with the New York State Department of Taxation and Finance and New York City Department of Finance and handles sales tax, corporate franchise tax, personal income tax, and residency audits.

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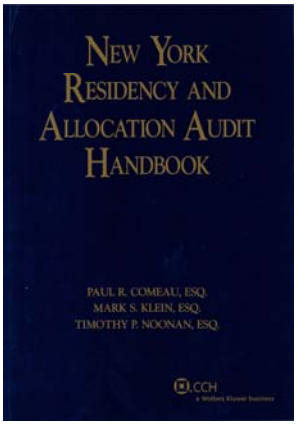
Kristine L. Sprung is a paralegal in the SALT Practice Group. Prior to joining Hodgson Russ, she spent two and a half years with the New York State Department of Taxation and Finance performing field tax audits of corporate and individual taxpayers.



Hodgson Russ attorneys Paul R. Comeau, Mark S. Klein, and Timothy P. Noonan wrote the book on New York State residency audits—literally.

Published by CCH Tax and Accounting, the *New York Residency and Allocation Audit Handbook* by Mr. Comeau, Mr. Klein, and Mr. Noonan provides a wealth of additional information about these rules and their application in other states. The *Handbook* is available through the CCH website at http://onlinestore.cch.com/ or by calling 1-800-248-3248.

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