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What to Expect in a Residency Audit

Prepared by the Hodgson Russ
State & Local Tax Practice

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A Message From Hodgson Russ

Over the years, we have been called upon to help thousands 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.

While the focus of our topic in this handbook is on New York audits, you should also find it helpful if you are the unlucky recipient of a residency audit in another state. In particular, northeastern states like Connecticut, New Jersey, Massachusetts and Pennsylvania all have similar residency rules, so the information outlined in this handbook could provide helpful guidance in those states as well.

Please don't hesitate to call us or any member of our State & Local Tax Practice.

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A New York State residency audit is one of the most difficult, intrusive, and document-intensive of all personal income tax audits. And the New York Tax Department has one of the most sophisticated and aggressive residency-audit programs in the country. This handbook follows a question-and-answer format that should tell you everything—ok, almost everything—you need to know about what happens in these audits. You'll have to call us if you want to know everything!

WHAT IS A RESIDENCY AUDIT?

A residency audit is designed to determine whether you correctly filed as a nonresident or part-year resident of New York. 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 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 audit will generally cover three areas. First, the auditors will focus on the first residency test, called the "domicile" test. Second, the auditors will look to the alternative residency test, called "statutory residency." And finally, even if you are able to establish nonresidency, the audit will also examine whether you properly "allocated" your sourced income to New York on your tax return.

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We usually don't see the New York auditors examining other underlying components of a tax return—such as the income and deductions reported. But in more recent years, as auditors have become better trained (and more aggressive), there has been more of a shift in focus to the ENTIRE tax return, so you should be ready for such questions as well.

HOW LIKELY IS IT THAT I WILL BE AUDITED?

Very likely. If you are a high-income taxpayer claiming a move into or out of New York, it's a near certainty you will be audited. The Tax Department is sophisticated and aggressive. Consider some of the numbers:

- The tax department has ten district offices located across the State (and in Chicago).
- There are more than **300** auditors who focus on these cases.
- Over the past five years, the Tax Department has conducted over 15,000 of these audits.
- These audits have generated over $1 billion in revenue over this time period.

In short, there are a billion reasons why the New York Tax Department watches these issues carefully. If you claim a move from New York, expect to get audited.

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HOW IS RESIDENCY DETERMINED?

There are TWO residency tests.

The auditor will first attempt to establish whether you are **domiciled** in New York. That's the first test.

The second test is more black and white. Under the second test—called "**statutory residency**"—a taxpayer who is domiciled in another state can still be taxed as a resident if they maintain a permanent place of abode in New York and spend more than 183 days in New York during the year.

If you meet either of these tests, you are a resident. So we have to be mindful of both issues.

HOW IS DOMICILE DETERMINED?

A domicile audit usually is concerned with change: Did the taxpayer move into or out of New York during the audit period? We are often looking to tie that change to a change in lifestyle or some life-changing event, like a marriage, retirement, new job, and so forth. And despite what many taxpayers and practitioners believe, the inquiry is not really focused on where the taxpayer is registered to vote, maintains a driver's license, or registers his cars. It is a much more subjective inquiry, based on long-standing common-law principles that are often difficult to apply. The general standard from the case law is that "the test of intent with respect to a purported new domicile [depends on] whether the place of habitation is the permanent home of a person, with the range of sentiment, feeling and permanent association with it."

Critically, the party asserting a change of domicile has the burden to prove, by clear and convincing evidence, that the taxpayer abandoned his or her historic domicile and moved to the new location with the intent to remain there permanently. Don't take the

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burden of proof concept lightly. "Clear and convincing" evidence is not defined, but we're sure it means better than 51/49. If a taxpayer has the burden of proof in a domicile audit and the case is a close one, a tie will go the New York Tax Department. Of course, if the Department is asserting a change-of-domicile into New York, the burden goes the other way, and the Department must prove, by clear and convincing evidence, that the taxpayer intended to change his domicile to New York.

Overall, though, the domicile inquiry has to do with a taxpayer's feelings and intentions, which can be difficult to quantify. The nonresident audit guidelines that the Department has put together are of great value in assisting auditors (and practitioners) in working through the issues that come up during a residency audit.

Under the guidelines, the auditor is instructed to analyze the taxpayer's lifestyle, using five "primary" factors to determine where the taxpayer's domicile—his or her one, true home—is actually located. An assessment of these "five factors," and a series of less significant "other" factors as necessary, is used by the Tax Department as an objective means to a subjective end: on balance, the place where the factors most heavily favor is likely the taxpayer's domicile.

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The Five Factors

HOME

The home factor reviews the use and maintenance of the taxpayer's New York residence as compared with the nature and use patterns of the non-New York residence. In other words, does the taxpayer behave as though the non-New York residence is her "home"? That is particularly crucial when a New York residence is acquired by a taxpayer whose domicile is in another state or when a residence in New York is retained after a move to another state. So questions about timing, and which residence was owned or occupied first, are often important. But other questions often arise. Is one residence owned but the other a rental? What is the value and size of each residence? What actions did the taxpayer take to remove herself from the old community? Has she established roots in the new community? Where does the family spend holidays and special occasions? Those are the questions practitioners have to ask -- because we know the auditor will.

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ACTIVE BUSINESS INVOLVEMENT

This factor considers the pattern of employment and the compensation derived from that employment. It will also examine the taxpayer's active business involvement other than employment. Ongoing participation in decision-making and frequent communication with a business, even after official retirement, can be viewed as the most significant evidence of one's domicile. For this factor, we would be looking to determine where the taxpayer actually worked on a day-to-day basis as well as the location of his primary office. If the taxpayer is a partner or shareholder in a New York business, the level of participation in the day-to-day management of the business can be looked at as well.

Often, of course, the taxpayer is retired, so this is a nonfactor in some cases. Sometimes a taxpayer moves from New York City out to Westchester County, Long Island, or another City suburb. The taxpayer will continue to work in New York City after the move, only as a commuter, and not a resident. Auditors are instructed to be reasonable in this situation, and not inflate the value of this factor vis-à-vis a taxpayer's otherwise strong non-New York City connections.

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TIME

Time is often the most important factor in a domicile case. Generally, an individual is going to spend the majority of time at his "home." So the residency audit is naturally focused on this question, and there are a few important aspects of this factor to mention.

- First, often we see taxpayers focus on the statutory residency test detailed below, and do everything they can to make sure they spend less than six months in New York. That's great, and it's obviously important, but a taxpayer who spends 182 days in New York might still have a residency problem under the domicile test.
- Second, with the "time" factor auditors are trying to determine where the taxpayer spends the majority of his or her time. If the taxpayer does not spend more time in her claimed "home" than in any other location, the auditor will have questions. So we will often focus our clients on the ratio of days spent in the new jurisdiction vs. days spent in New York. The bigger the ratio, often the better the case.
- A look at the raw number of days spent in any given place, however, is not always determinative either. Indeed, the domicile test is focused on a change in patterns, more than a simple quantification of days in and out of New York. Thus, for example, a taxpayer who goes from spending 300 days in New York to 150, and from 10 days in Florida to 145, certainly may be

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able to establish a change in domicile given the change in pattern.

This factor sometimes takes on less importance for those who commute into New York. As stated by the New York Tax Appeals Tribunal in the *Knight* case, regular presence and significant time in New York City, without further proof of a New York domicile, is not at all inconsistent with a suburban commuter who comes into New York just for "work or play." Along the same lines, while statutory residency is concerned with a day count test that focuses on whether the taxpayer spent any part of a day in New York (i.e., "a minute is a day" in New York), practitioners can advocate for a different application of the "time" factor analysis when the facts warrant it. For example, if the taxpayer spent 250 days in New York City, but didn't spend a single night in New York City during a particular tax year, the 250 days in New York City will rightfully carry less significance.

Finally, to state it bluntly, this factor can also be a real pain in the neck. Proof of day-to-day location in some form or another is generally required for every single day in the audit period. Maintaining, and then producing this evidence on demand, is obviously a time-consuming process, and—like the statutory residency test described below—one that requires an examination of diaries or appointment books, expense reports, credit cards, phone bills, frequent flier statements, passport, and other similar documents.

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NEAR AND DEAR

This factor is often the most unusual. The auditor will investigate the location of those items that are of value to the taxpayer, whether the value is monetary or sentimental. Insurance riders are also often used by auditors to attempt to verify the location of treasured items. They are “those personal items which enhance the quality of lifestyle.” We like to call this the “teddy bear” test, looking for the things it just wouldn’t be “home” without.

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FAMILY

This factor used to be considered only if the auditor was unable to reach a conclusion using the other four "primary" factors. In today's residency audits, however, the "family" factor is analyzed along with the other primary factors in the ordinary course of the audit. The scope of this factor, however, is somewhat limited. Auditors are only supposed to consider where a taxpayer's spouse and minor children live in considering where a taxpayer is domiciled. Indeed, as acknowledged in the Tax Department's audit guidelines, the location where minor children attend school can be one of the most important factors in a domicile audit. Occasionally, however, the location of other family members (siblings, parents, and so forth) may be determinative in a person's choice to change domiciles. When we find that to be the case, we bring it to the auditor's attention.

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WHAT ABOUT CHANGING MY DRIVER'S LICENSE, REGISTERING TO VOTE, ETC.?

None of the five "primary" domicile factors look to things like voter registration, driver's licenses, and so forth. Those are the so-called "other" factors (so called in the Tax Department's audit guidelines), and include:

- the address at which bank statements, bills, and other family and business correspondence are received;
- the physical location of safe-deposit boxes;
- the location of auto, boat, and airplane registrations and of the taxpayer's driver's or operator's license;
- voter registration, and where and when the taxpayer voted;
- possession of a New York City parking tax exemption;
- telephone services and activity at each residence; and
- a taxpayer's domicile declaration in legal documents such as a will and through property tax exemptions.

And although it is important that taxpayers who change their residence actually do these things, generally these aren't the types of things that are determinative in a residency audit. We like to think of the "other" factors as defensive in nature: We like to have them to back up our residency position, but they won't be enough to carry the day.

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ARE THERE ANY SPECIAL SAFE HARBORS AGAINST THE DOMICILE TEST?

Yes, there are a couple, mainly to cover people who are still domiciled here but spend very little time in New York or the United States. 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); 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.

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WHAT IS THE STATUTORY RESIDENCY TEST?

A taxpayer can also be a resident if he or she qualifies as a statutory resident, of New York State and or New York City, under section 605(b)(1)(B) of the New York Tax Law. This test has **two** requirements:

- Maintenance of a permanent place of abode (a "PPA");
- More than 183 days in New York

WHAT IS A PPA?

A Dwelling Place. The first requirement—maintenance of a PPA—has a few different parts. First, the place of abode must be "a dwelling place." That 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 as a taxpayer's PPA. Nor would a dwelling that is suitable and used only for vacation purposes by the taxpayer, perhaps because the abode doesn't have heat in the winter or year-round road access. And if an abode is under significant construction, this can also help to undermine the notion that it is a PPA. Photos, utility bills, construction documentation, and other materials could be used to prove all of this.

The *Gaied* Case. Also, the place of abode must be "maintained" by the taxpayer as a residence for himself. Ownership or a property

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interest in the dwelling, for those purposes, is irrelevant. Based on a 2014 Court of Appeals case called *Gaied* (handled by our firm), in order to qualify as a permanent place of abode, there must be some evidence that the taxpayer used the dwelling as a residence, or had a "residential interest" in the abode. Since that case came out, we've been grappling with the Tax Department about what that really means, so this issue is something to investigate and discuss with your advisor as you prepare for the audit.

Corporate Apartments. Corporate apartments maintained for use by an executive or employee are one example. If a company maintains a corporate apartment that is used by many people, or if an apartment is maintained for something other than as a residence for the taxpayer or his or her family, that apartment would not be considered the PPA of any one person. The taxpayer under audit would, however, have to prove that the apartment was regularly used by more than one person (and that, given this fact, the taxpayer didn't have a dedicated space or bedroom within the apartment), usually by providing logs or other proof that arrangements must be made in advance for the apartment's use.

The 11-Month Rule. Finally, the PPA must be maintained for substantially all of the year. The law contains the "substantially all of the year" test, and the Tax Department has historically interpreted that as a period of time that exceeds 11 months. So under this "11-month" rule, if you get rid of your place in mid-November or acquire your place in early February, you should not be subject to the statutory residency test regardless of how many days you spend here.

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HOW DOES THE DAY COUNT TEST WORK?

The second requirement for statutory residence—spending more than an aggregate of 183 days of the tax year in the state (and in New York City, if City residency 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 only. "Days" for this purpose are parts of days—and any part of a day is equal to a full day in New York. So, for example, if the taxpayer wakes up in his New York apartment on Saturday morning, drives to Atlantic City for the weekend and returns to New York after dinner Sunday evening, he still has two days in New York (he woke up in New York on Saturday and went to sleep in New York on Sunday). Also, the burden of proof is on the taxpayer, and unidentified or undocumented days are counted as New York days. Thus, if there's no proof of where the taxpayer was on a particular day, can you guess how the auditor will treat it?

Although any part of a day counts as a day, there are a couple special exceptions:

- **Travel Days.** 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.

- **Medical Days.** Treatment in a New York medical facility is not counted as days in New York for statutory residence purposes. This is inpatient care; treatment as an out-patient still counts as a day in New York.

In terms of the documentation needed during the audit, there's a whole laundry list of items to consider, including:

- **Cell Phone Usage.** These records have become the most important source of documentation to track days. Most cell providers maintain records that show where the taxpayer's phone was (or what tower the taxpayer's phone pinged off of) whenever a phone call was placed or received. Other providers, such as AT&T, also provide location records documenting cell tower locations for every text and data usage event, too. The tax department can subpoena these records, or we can usually get them ourselves.
- **Credit Card/ATM Statements.** Taxpayers tracking their New York time and spouses/children should maintain separate credit cards. American Express separates purchase detail for each separate cardholder

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on monthly statements, but other companies that aggregate purchases made by various cardholders on a single statement pose serious difficulties for taxpayers on audit. Keep an eye out for entities that generate "false positive" New York activity, which can occur because a credit card is on file at a dry cleaner, at a grocery store, or other similar location, or because of online or remote purchases.

- **Personal Diary.** The Tax Department should accept a personal, contemporaneous diary on audit as proof of a taxpayer's location, but it often doesn't. The credibility of a personal diary is considerably bolstered by corroborating third party documentation.
- **Outlook or Similar Electronic Calendar.** These are useful too, but taxpayers can retroactively alter and adjust electronic calendar appointments and entries, which limits the usefulness of these types of calendars on audit. Taxpayers should be careful amending calendar appointments, unless done within a reasonable time frame following the original appointment.
- **Flight/Travel Records.** Taxpayers should keep all travel records, including boarding passes, hotel folios, receipts for fuel and other purchases, limo and taxi receipts, copies of passports (even if expired), etc. Taxpayers should join frequent flyer programs for commercial airlines they fly with, as the frequent flyer programs can act as a back-up record of the customer's flight history for a number of years.
- **EZ-Pass Records.** EZ-Pass records are a common source of documentation in residency audits, particularly when a taxpayer lives in the tristate area and commutes into New York State or City for work. To the extent possible, taxpayers should be careful not to commingle EZ-Pass tags among several users or vehicles, as it's often difficult to determine exactly who was in what vehicle at what time when tags are shared. Each family member should have a separate EZ-Pass

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account in his or her own name. It's sometimes difficult to obtain EZ-Pass records from a non-New York EZ-Pass authority, which makes saving EZ-Pass statements as they're generated more important.

- **Driver Logs.** If a taxpayer has a personal driver or limousine service, it's important for the driver to keep a detailed and contemporaneous log indicating who was in the car, the origination location and destination of each trip, and date and time of each trip.
- **Landline Phone.** It's often difficult for taxpayers to obtain detailed reports of their landline telephone usage, and sometimes this information would be of limited value anyways, because multiple users could be making or receiving phone calls (including staff and visitors). This doesn't stop the New York taxing authority from issuing subpoenas to obtain landline call detail, however.
- **Swipe Card Records.** Many companies and buildings maintain records and logs of an occupant/employee's entrance/exit detail through electronic entry systems. When these records are available, auditors are requesting them. These records are often destroyed on a revolving basis, however, and thus may only be available for a limited period of time.

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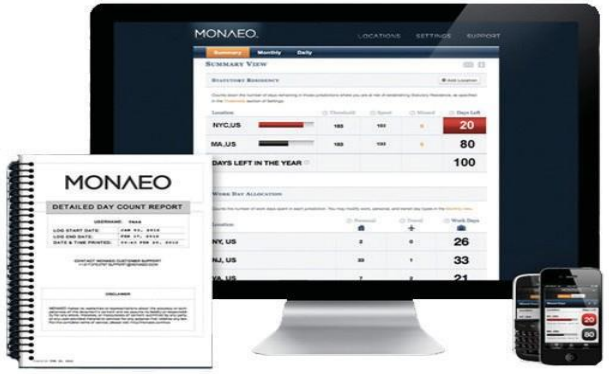
Use of Technology to Track Days

Given the effort and pain associated with keeping records to prove how many days an individual has spent in a given jurisdiction, it may make sense to use technology to automate the process.

Monaeo, for example, has designed software to track the days spent in relevant jurisdictions. Monaeo uses the GPS on a mobile device to do this while protecting the individual's privacy. Monaeo has designed its software to:

- Issue a warning when a user is close to a limitation that may create residency in a specific jurisdiction, such as 183 days in New York
- Automatically generate a third-party record of locations, which may help defend the taxpayer in the event of an audit



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IF I WIN THE RESIDENCY TESTS, AM I DONE?

Not so fast! You still have to establish that, as a nonresident, you correctly allocated your income to New York.

Under New York's rules, nonresidents of New York are required to pay tax on income that is derived from "New York sources." Here's a listing of the typical types of income that could be treated as New York source income:

- Wage income associated with days worked in New York
- Director's fees
- Gains on the sale of property located in New York
- Commissions derived from New York customers
- Income from partnerships or other flow through entities

And here are some items that would normally NOT constitute income from New York sources:

- Investment income derived from stocks or other "intangible" assets
- Gains on the sale of property located outside New York
- Income from public pensions

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HOW DOES THIS "ALLOCATION" AUDIT WORK?

Normally the auditor will ask to see copies of W-2s, employment agreements, stock option agreements, etc. to determine how you earned your wage income.

Then we have to do a similar kind of "day counting" that we did for the statutory residency part of the audit. But here, the focus is on workdays, and determining the percentage of days worked in New York over the period of time in which the income was earned. All of the recordkeeping items above can help here, plus things like expense reports, attendance summaries, etc. can be helpful.

The rest of this audit process will depend on how you earn your income. If you made money from buying and selling properties, the auditor may request records detailing the underlying transactions. If you earned income through partnerships or other flow through entities, the auditor will likely request copies of the K-1s associated with those entities. Or if you earned your income through sales of tangible or intangible assets, the auditor will be looking to determine whether any of those assets were related to New York sources in some way.

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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 months or longer. So prepare for it to take at least 6 months to a year.

DID YOU SAY "NEGOTIATION?"

Yes. The results here are not always binary, all-or-nothing type conclusions. Many audits are resolved for less than 100% of the tax that might otherwise be due.

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 7.5% range in recent years.

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

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pursue the abatement of such penalties as a condition for settlement of the case.

HOW WILL THIS AFFECT MY FEDERAL TAX RETURN?

A New York residency audit generally does not affect the federal return for the year under audit. Under pre-2018 law, the New York tax paid as a result of this audit was deductible on your federal return for the current year, if you itemize your deductions and were not subject to alternative minimum tax. But effective 2018, this benefit basically went away, as deductions for state taxes were capped at $10,000 per year.

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.

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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 they 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 they 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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Meet the SALT Group

Timothy P. Noonan is the partner in charge of our Residency Practice. Tim assists clients with state and local tax issues, with a focus on New York, New Jersey, and Connecticut tax litigation and controversies, and he has litigated some of the most high-profile residency cases in New York State.

Mark S. Klein is the partner in charge of our New York City-based tax practice and is current chair of the firm. Mark has approximately 35 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.

Joseph N. Endres represents taxpayers in disputes with the New York State Department of Taxation and Finance. Joe's practice focuses on personal income tax and residency matters, in addition to sales and use tax issues in the technology industry (software as a service, cloud computing, digital products, etc.).

Paul R. Comeau is the partner in charge of our Tax & Wealth Management Practice. Paul is a past chair of the firm and has practiced tax law since 1974. He focuses his practice on representing high-net-worth clients, tax planning and multistate tax issues.

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Thomas J. Collura advises clients in a wide range of areas of taxation, including on state and local tax. Tom is also a lecturer for, and coordinator of, the Masters in Taxation Program at the University at Albany.

Christopher L. Doyle's practice encompasses all facets of New York State and New York City taxation and involves federal and multistate tax matters. His work focuses on business enterprises and business income issues, topics on which he also frequently writes and speaks.

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, Liz served as an intern for Judge William Skretny in the Western District of New York.

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

Debra Silverman Herman counsels clients on a variety of tax matters, including helping clients address the state and local tax impact of their multistate activities from both the planning and the audit and controversy perspectives.

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

Ariele R. Doolittle focuses her practice on all aspects of New York State and local tax matters, including planning, civil tax controversy, and criminal tax controversy. Prior to joining Hodgson Russ, Ariele was a law clerk at the New York State Division of Tax Appeals and Tax Appeals Tribunal.

Daniel P. Kelly is admitted to practice law in New York and Florida. Prior to joining Hodgson Russ, he worked as an intern at the New York County District Attorney's Office.

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Emma M. Savino handles disputes involving the New York State and City Tax Departments and counsels businesses and individuals in a range of multistate, state and local tax issues. She advises clients on all aspects of state and local tax from planning and compliance, to audit and litigation.

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