MINNESOTA RESIDENCY & TAX CONSEQUENCES

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Individuals considering a move out of Minnesota (or those who have already moved) should be advised to take caution when it comes to consequences related to the Minnesota state income tax. The state has been increasingly vigilant in this area and the burden is typically on the taxpayer to prove they have effectively left the state. This can be a lengthy process, particularly if the taxpayer is not well organized and prepared. Proactive planning coordinated with tax, legal, and financial advisors will increase the odds of being successful in the event of an audit.

Most individuals are familiar with the "time test" which essentially states that if the taxpayer is in the state of Minnesota for more than 183 days in any given year, they are considered a resident and subject to Minnesota state income tax. While this rule is definitive in proving the state's case against taxpayers, the same is not true for taxpayers that pass the test. The fact that a taxpayer was not in the state 183+ days alone is not usually enough to support their case.

In addition to the "time test", the Minnesota Department of Revenue has cited the following subjective criteria that are considered in proving or disproving status as a Minnesota resident:

1. Location of domicile in prior years.
2. Where the person votes or is registered to vote, however casting an illegal vote does not establish domicile for income tax purposes.
3. Status as a student.
4. Classification of employment as temporary or permanent.
5. Location of employment.
6. Location of newly acquired living quarters whether owned or rented.
7. Present status of the former living quarters, i.e., whether it was sold, offered for sale, rented or available for rent to another.
8. Whether homestead status has been requested and/or obtained for property tax purposes on newly purchased living quarters and whether the homestead status of the former living quarters has not been renewed.
9. Ownership of other real property.
10. Jurisdiction in which a valid driver's license was issued.
11. Jurisdiction from which any professional licenses were issued.
12. Location of the person's union membership.
13. Jurisdiction from which any motor vehicle license was issued and the actual physical location of the vehicles.
14. Whether resident or nonresident fishing or hunting licenses were purchased.
15. Whether an income tax return has been filed as a resident or nonresident.
16. Whether the person has fulfilled the tax obligations required of a resident.
17. Location of any bank accounts, especially the location of the most active checking account.
18. Location of other transactions with financial institutions.
19. Location of the place of worship at which the person is a member.
20. Location of business relationships and the place where business is transacted.
21. Location of social, fraternal or athletic organizations or clubs, including in a lodge or country club, in which the person is a member.
22. Address where mail is received.
23. Percentage of time (not counting hours of employment) that the person is physically present in Minnesota and the percentage of time (not counting hours of employment) that the person is physically present in each jurisdiction other than Minnesota.
24. Location of jurisdiction from which unemployment compensation benefits are received.
25. Location of schools at which the person or the person's spouse or children attend, & whether resident or nonresident tuition was charged.
26. Statements made to an insurance company concerning the person's residence and on which the insurance is based.

Even beyond the time test and this list of 26 subjective factors, the state will consider things such as where the taxpayer called "home" in an email or whether they have established new social groups, hobbies, et al. in their new state of permanent residence. While these requirements can seem daunting, taxpayers that have legitimately left the state with every intention of becoming a resident somewhere else should not be discouraged. A coordinated approach involving the taxpayer's advisory team can establish a customized process to increase the odds of a successful transition.

If you have any questions or would like to start the planning process, please contact your advisor.