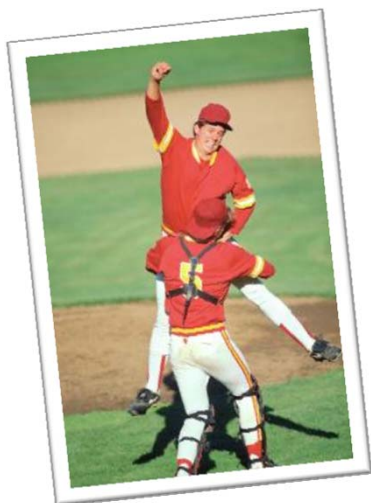


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# Athletes and Entertainers— Multistate Tax Issues

*Presented by*

**Timothy P. Noonan, Esq.**

# Summary of Topics

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- # Section 1: The All-Important Concept of Residency
- # Section 2: Pay to Play: Nonresident Income Allocation Issues
- # Section 3: Tax Credits, Withholding and Other Stuff

# Section 1

## The All-Important Concept of Residency

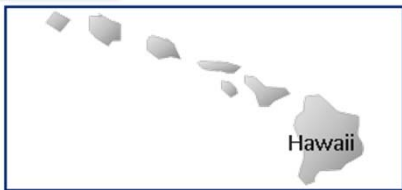


# Starting Point

## *Overview of Income Tax Issues*

### # Central Issue: Where Do I Pay Tax?

- Residency: Where do I “live?”
- Allocation: Where do I work?



# Real-Life Case Studies

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- # Derek Jeter: NY vs. FL
- # Lindy Ruff: Home sweet home?
- # Mario Williams: \$100M Man
- # Phil Mickelson: Drastic Changes?
- # Johnny Manziel: Texas or Ohio?
- # Tom Hanks: On Broadway
- # Alec Baldwin: Another Baldwin in trouble

# The All-Important Concept of Residency

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## # Importance of Residency Status

## # Basic Residency Tests

- Residency Based on Domicile
- Residency Based on Days

## # Burden of Proof in Tax Cases

- Jeter vs. NYS

# Different State Residency Tests

## *Domicile OR 'Statutory Residency'*



# Different State Residency Tests

*Domicile **OR** 'Statutory Residency'*



7  
Months



200  
Days



Days  
Only



# Different State Residency Tests

*Domicile **OR** 'Non-Temporary/Transitory Purpose'*



California



Hawaii



Illinois



Michigan



Arizona



Montana

# The All-Important Concept of Residency

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## # OH's Bright-Line Tests

## # Domicile Only (sort of)

- AL, SC, WI, KS, MI, NM (look out for "presumptions")

# The All-Important Concept of Residency

## # Best Places to Live



# Domicile



# The All-Important Concept of Residency

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## # Factor-Based Tests

- Home
- Business
- Time
- Near and Dear
- Family

## # Leave & Land Rule

# Real-Life Case Studies on Domicile

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- # Derek Jeter: Burden of proof
- # Lindy Ruff: Home sweet home?
- # Mario Williams: Not according to his neighbors
- # Phil Mickelson: Needs “Drastic Changes”
- # Johnny Manziel: No Place Like Texas
- # Tom Hanks: A lucky guy?
- # Alec Baldwin: NYS vs. NYC

# The All-Important Concept of Residency

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## # “Statutory” Residency

- “PPA” and 183 Days

## # The “PPA” Test: Living Quarters

- Any type of dwelling
- *Gaied v. New York*: Taxpayer must “use as a residence”



# The All-Important Concept of Residency

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## # Recordkeeping Issues & 183 Days

- Calendar
- Phone Logs
- Credit Cards
- EZ Pass
- Flight Records
- Team Schedules
- Tour Schedules
- Monaeo Tracking App



# Case Studies on Stat Res

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- # Derek Jeter: Counting games
- # Lindy Ruff: In a box
- # Mario Williams: Not according to his neighbors, again
- # Phil Mickelson: N/A
- # Johnny Manziel: Johnny Countdown
- # Tom Hanks: An un-lucky guy?
- # Alec Baldwin: NYS vs. NYC

# Attendance Validation #1

Please locate your  
Attendance Validation Form

(it should be the 4<sup>th</sup> page in your Handout Materials)



Keep this form handy!  
We'll have two more  
attendance validation  
items for you to write  
down later in today's  
webinar.

**state income tax**

**REMINDER!**

You can e-mail your questions during today's  
seminar to be passed along to our presenter for  
response during the Q&A session -



Send your questions to  
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# Section 2

## Pay to Play

### *Nonresident Income Allocation Issues*



# Real-Life Case Studies

## *Allocation*

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- # Derek Jeter: Days in and out
- # Lindy Ruff: Duty days for coach
- # Mario Williams: One day at a time
- # Phil Mickelson: A taxing schedule
- # Johnny Manziel: Days in and out
- # Tom Hanks: On Broadway
- # Alec Baldwin: Who's in his wallet?



# Pay to Play

## *Nonresident Income Allocation Issues*

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- # So-Called “Jock Taxes”
- # Basic Concepts of Nonresident Taxation
  - “Sourcing” Rules
  - Wages = Workdays in State
  - Special Rules for Signing Bonuses

# Pay to Play

## *Nonresident Income Allocation Issues*

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# CA's 1991 decision to enforce the "jock tax."

- and "Michael Jordan's Revenge"

# City-Based Jock Taxes

- Cleveland, Cincinnati, Detroit, KC
- Watch out for Philly

# Two Methods for Allocation

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Duty  
Days



Games  
Played

# Duty Days

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- # Most Common
- # Federal Method
- # FTA Approach



# Games Played

- # Largely been abandoned
- # Saturday/Hillenmeyer vs. City of Cleveland (2014)
  - Hillenmeyer: 5x higher under games played
  - Saturday: I didn't even play?
- # Tennessee's \$2,500/Game Tax
  - NHL players exempt
  - NBA players will be in two years

# Duty Days Test



$$\text{Total Income} \times \frac{\text{Duty Days Spent in State}}{\text{Total Duty Days}}$$

# Duty Day Defined

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- # All practice days, game days, travel days from pre-season to end of post-season play
- # Plus off-season practice days, per contractual obligation
  - MLB AZ & FL Spring Training
- # Travel days
  - Only if activity

# Entertainers

## *Not Safe Either*

### # AI Franken

- Doggonit, states like him

### # Newman gets stung by CA

- A “duty-day” type test

### # Musicians/Comedians

- Where show is located



# Real Life Case Studies on Allocation

- # Derek Jeter: 230 duty days; how many in taxing states?
- # Lindy Ruff: Still a NY'er? 100% tax in NY < resident credits
- # Mario Williams: 235 estimated duty days, but many in NY
- # Phil Mickelson: Tourney location, but does it matter?
- # Johnny Manziel: See Williams, Mano.
- # Tom Hanks: 100% NY?
- # Alec Baldwin: NY/CA pockets?



# Attendance Validation #2

Time to record our second attendance check item on your Attendance Validation Form

**duty day**



Keep this form handy!  
We'll have one more attendance validation item for you to write down later in today's webinar.

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# Take a Break!

## *Return in 5 Minutes*



The program will resume promptly after 5 minutes.



# Taxation of Endorsement Issue

## *State Specific Rules*





# Royalties

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## # NY's Tony Bennett Case

- If based on NY services, it's NY taxable
- But is it a "royalty?"

## # Other States

# Goosen and Garcia IRS Cases

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## # For services

- Place of performance

## # For likeness

- Home base

## # In between clubs?

# Real-Life Case Studies Endorsements

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- # Derek Jeter: Likeness vs. Services
- # Lindy Ruff: He wishes!
- # Mario Williams: Location of services
- # Phil Mickelson: It's complicated
- # Johnny Manziel: Why he won't move to Cleveland
- # Tom Hanks: Stupid is . . .
- # Alec Baldwin: What state is in his wallet?

# Section 3

## Tax Credits, Withholding, and Other Stuff



# Polling Question



What prevents states from imposing double taxation?

- The U.S. Constitution
- Nothing



# Resident Tax Credits

## *Sosa vs. Illinois*



# How It Should Work

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- # Full Tax in Resident State
- # Tax in Nonresident State Based on Sourcing Rules
- # Resident State Gives Credit

# How It Really Works

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- # Different Tax Rates
- # Different Sourcing Rules?
  - Signing Bonus Example
  - Royalty Rules



# Real-Life Case Studies

## *Resident Credits*

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- # Derek Jeter: N/A
- # Lindy Ruff: N/A?
- # Mario Williams: N/A?
- # Phil Mickelson: Reducing the CA bite
- # Johnny Manziel: See Williams, Mario
- # Tom Hanks: a BIG deal
- # Alec Baldwin: Who fills his wallet?

# Employer Withholding Issues

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- # Basic Withholding Rules
- # Different Rules in Different States
- # Composite Returns
- # Responsibility on Team?

# Special CA Rules for Entertainers

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## # Publication 1024

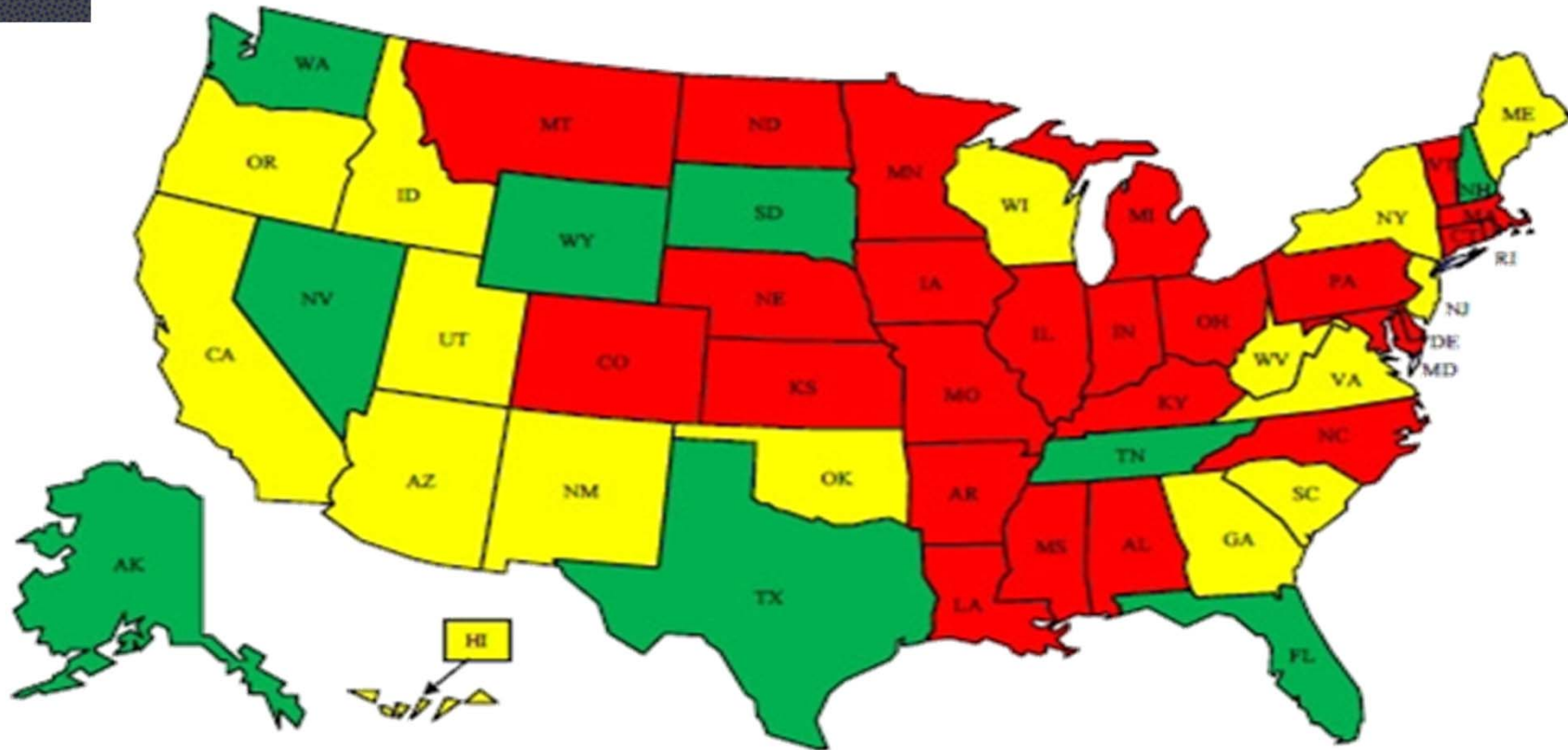
- “Nonresident Withholding—Entertainment Guidelines”

## # 7% Withholding Requirement




## # Exemptions from Withholding

## # Composite Returns

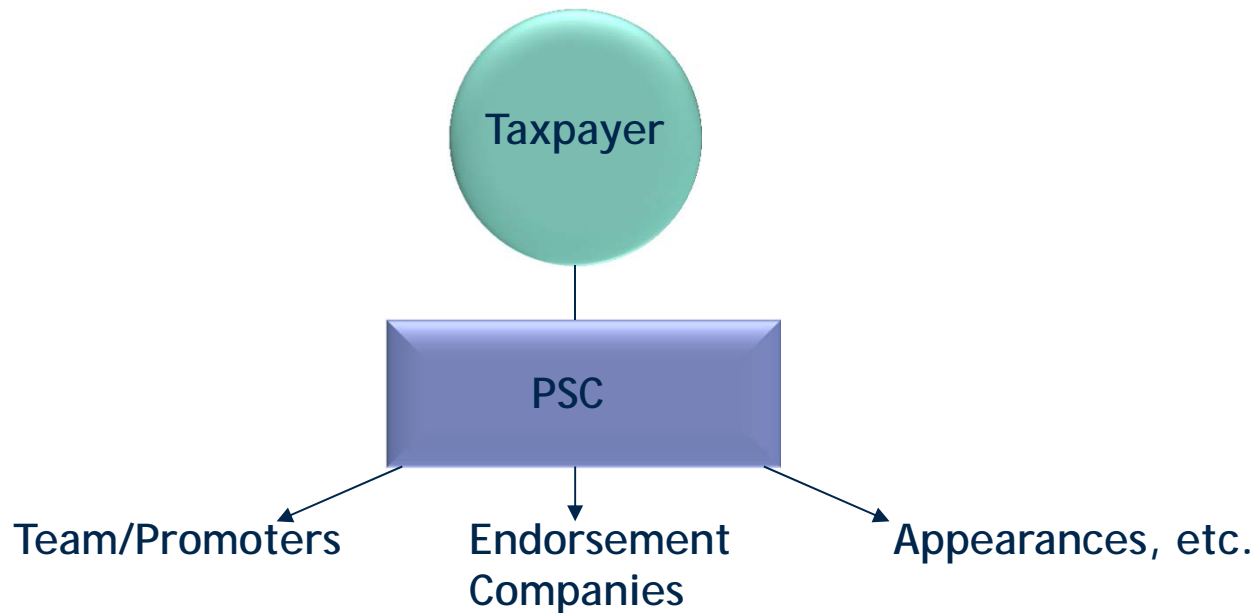
# Nonresident Personal Income Tax Withholding



Key

-  Nonresident employees subject to tax withholding on *first day* of travel
-  Nonresident employees subject to tax withholding after reaching threshold
-  No general personal income tax (or, in the case of Washington, DC, no tax on nonresidents)

# Use of Personal Service Companies



# Do they work?

# Duty day for entertainers?

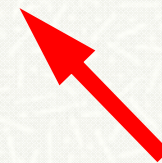


# Attendance Validation #3



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**signing bonus**

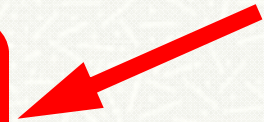




# Question and Answer Session

You can e-mail your questions to

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*Please limit your questions  
to only topics discussed  
during today's presentation.*



# CONCLUSION



# Thank You for Attending Today's Seminar

If you have further questions or  
if you need additional assistance,  
please feel free to contact:



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James R. Hamill  
CPA, Ph.D.

Tuesday, July 1, 2014