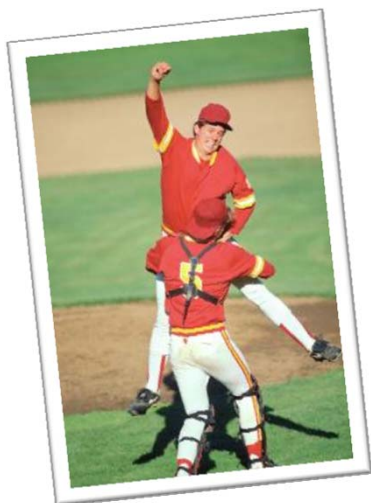


CCH Seminars



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Athletes and Entertainers— Multistate Tax Issues

Presented by

Timothy P. Noonan, Esq.

Summary of Topics

- # 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

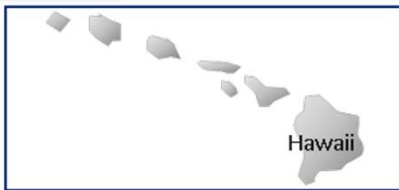


Starting Point

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

- # 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

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

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

Factor-Based Tests

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

Leave & Land Rule

Real-Life Case Studies on Domicile

- # 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

“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

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

- # 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 4th 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
seminars@cch.com

Section 2

Pay to Play

Nonresident Income Allocation Issues



Real-Life Case Studies

Allocation

- # 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

- # 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

- # 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



Duty
Days



Games
Played

Duty Days

- # 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

- # 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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seminars@cch.com



Take a Break!

Return in 5 Minutes



The program will resume promptly after 5 minutes.

Taxation of Endorsement Issue

State Specific Rules



Royalties

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

For services

- Place of performance

For likeness

- Home base

In between clubs?

Real-Life Case Studies Endorsements

- # 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

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

How It Really Works

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

Real-Life Case Studies

Resident Credits

- # 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

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

Special CA Rules for Entertainers

Publication 1024

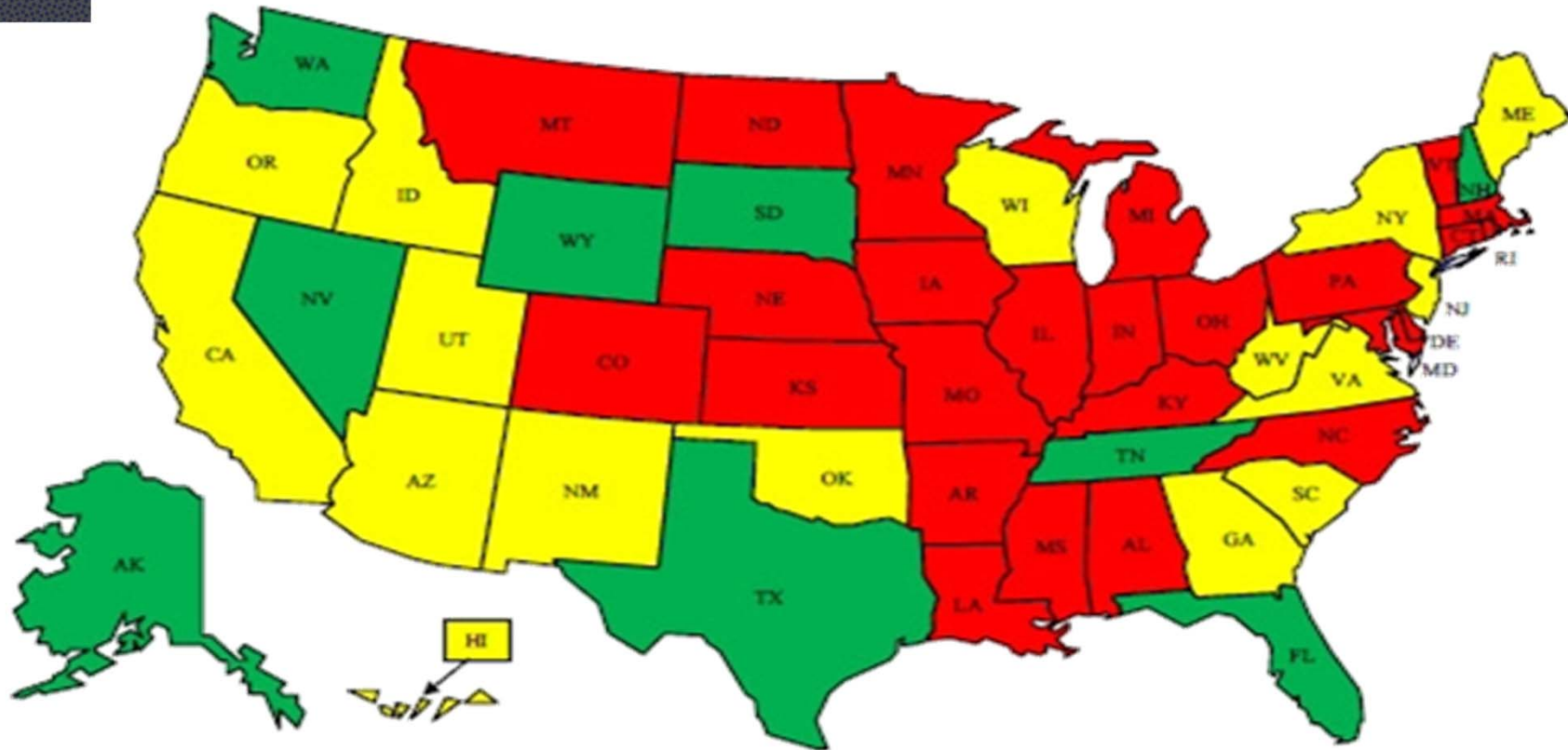
- “Nonresident Withholding—Entertainment Guidelines”

7% Withholding Requirement




Exemptions from Withholding

Composite Returns

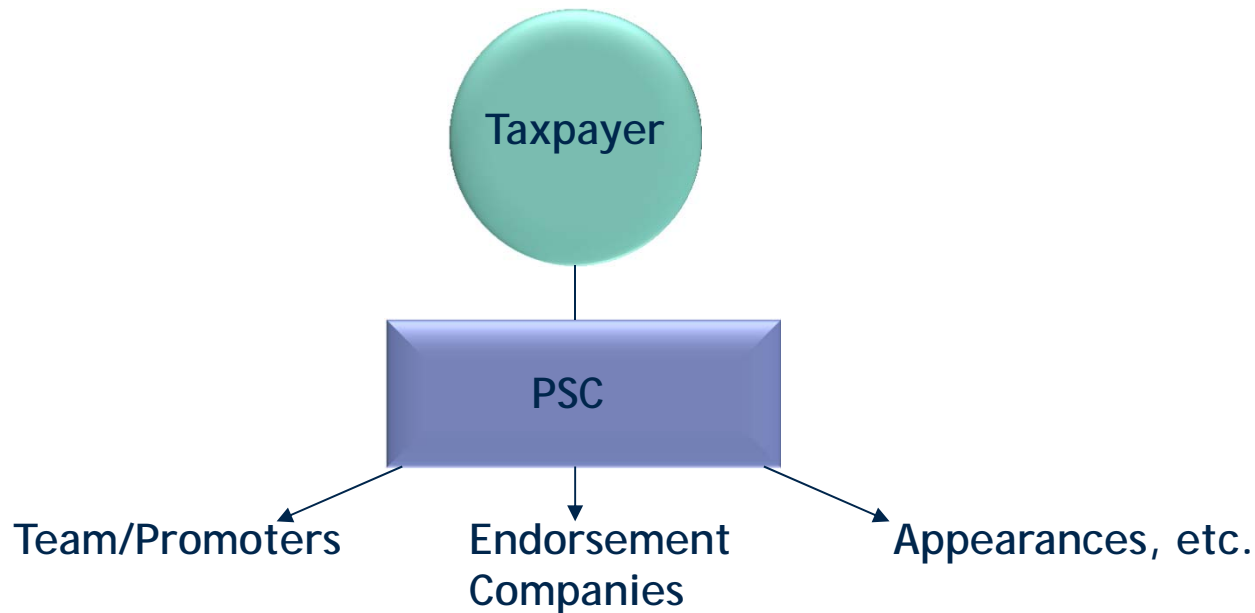
Nonresident Personal Income Tax Withholding



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?

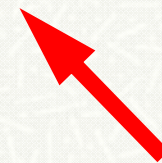
Duty day for entertainers?

Attendance Validation #3



Here is the 3rd and FINAL attendance validation for today's webinar.

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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Featured Upcoming Program

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James R. Hamill
CPA, Ph.D.

Tuesday, July 1, 2014