

Income Tax Update

Domicile, Residency and Mobile Workforce

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Panelists: Pennsylvania: Karen Sutsko

New York: Michelle Helm & Francis Leo

Connecticut: Michael Romeo

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Topics

- ▶ Residency Rules in Connecticut, New York and Pennsylvania
- ▶ State Tax Issues for the Mobile Workforce
- ▶ Hot Topics
- ▶ Revisiting the NESTOA Agreement: 20 Years Later

Connecticut

- ▶ “Resident” Definitions:
 - Domicile
 - Statutory Residency: (i) not domiciled in CT; (ii) permanent place of abode (PPA); and (iii) > 183 days in CT
 - Includes “30-day rule” and “548-day rule” exceptions
- ▶ Mobile Workforce
 - Work day allocation based on physical presence
 - Does not employ any “convenience of employer” rule
- ▶ Resident Credits
 - Credit for taxes paid to other states on “sourced” income
 - Extra time to claim credit if based on other-state audit

Connecticut

- ▶ Hot Topics
 - Insert here!

New York

- ▶ “Resident” Definitions:
 - Domicile
 - Statutory Residency: (i) not domiciled in NY; (ii) permanent place of abode (PPA); and (iii) > 183 days in NY
 - Includes “30-day rule” and “548-day rule” exceptions
- ▶ Mobile Workforce
 - Work day allocation based on physical presence, AND
 - “Convenience of employer” rule
- ▶ Resident Credits
 - Credit for taxes paid to other states on “sourced income”
 - No extension beyond 3 year SOL to claim credit

New York

▶ Hot Topics

- Gaied v. NY: What is a “PPA”?
- Sobotka: Statutory residency in a change of domicile year; is it a 3-part test?
- More?

Pennsylvania

- ▶ “Resident” Definitions:
 - Domicile
 - Statutory Residency: (i) not domiciled in PA; (ii) permanent place of abode (PPA); and (iii) > 183 days in PA
 - Includes “30-day rule” and “548-day rule” exceptions
- ▶ Mobile Workforce
 - Work day allocation based on physical presence
 - Follows NY’s “convenience rule,” though not published in any regulations or statute. See PIT-03-031(2003).
- ▶ Resident Credits
 - Credit for taxes paid to other states on “sourced income”
 - No extension beyond 3 year SOL to claim credit

Pennsylvania

- ▶ Hot Topics
 - Insert here!

Revisiting the 1996 NESTOA Agreement

- ▶ Cooperative Agreement on Determination of Domicile (October 1, 1996)
 - Signed by all 12 state tax commissioners
 - Copy attached
- ▶ Key Terms
 - Uniform Criteria for Determination of Domicile
 - Creation of 5-factor domicile test
 - Situs of Income
 - Sourced income = where earned
 - “Non-sourced” income = where taxpayer domiciled

Revisiting the 1996 NESTOA Agreement

- ▶ Key Terms (*con't*)
 - Fixing Resident Credit Problem for Dual Residents
 - “Statutory Residency State” should give credit for tax paid to state of domicile
 - Agencies agreed to “make every reasonable effort to see legislative or regulatory change to accomplish this
 - Process for resolving disputed cases
 - Formalized process in “dueling–domicile” cases

Revisiting the 1996 NESTOA Agreement

- ▶ So ... how did we do?
 - Uniform domicile tests?
 - Resident Credit Issue?
 - See attached article
 - Uniform Resolution Process?
- ▶ Are these goals still worth pursuing, 20 years later?