

# REGARDING HURRICANES HARVEY AND IRMA AND THEIR IMPACT ON NEW YORK RESIDENCY

*New York State Residency Alert*  
September 8, 2017

Clients who are domiciled in Texas, Florida, and US Virgin Islands may end up spending additional time in New York this year, due to Hurricanes Harvey or Irma. Those affected might be concerned about the impact of that additional New York time on their New York residency situation. Clients should be aware that the New York State Department of Taxation of Finance has not put out any information to taxpayers affected, or potentially affected, by these storms. To our knowledge, the Department has never issued an official policy regarding the treatment of days spent in New York due to a mandatory evacuation from a primary residence in another state, or damage to that residence.

The New York State Tax Law does not contain an exemption from the definition of a New York day for residency purposes in the context of natural disasters at a taxpayer's primary residence. In the absence of an explicit exemption or published policy, taxpayers should assume that the Department will likely treat the additional days in New York as New York days like any other for residency purposes in the context of an audit.

If you spend additional time in New York as a result of displacement from either of these storms, we recommend the following:

- Keep records of all evacuation orders and information about the impact of the storm on access to your town and/or residence;
- Keep itineraries of any flights that were cancelled due to the hurricanes;
- Keep contemporary correspondence/emails regarding your plans, your need to stay in New York for safety, etc.;
- If your primary home is damaged, keep all records (insurance documents, FEMA information, correspondence, and photos) regarding the extent of the damage and the timeline for repairs;
- Once you return home, try to limit any additional time in New York before the end of the year to the extent possible if doing so could impact your residency situation.

## **Attorneys**

Elizabeth Pascal

## **Practices & Industries**

Tax Residency

REGARDING HURRICANES HARVEY AND IRMA AND THEIR IMPACT ON NEW YORK RESIDENCY

Clients should avoid spending in excess of 183 days in New York State to the extent possible. BUT, safety should always be a first priority. We recommend that anyone who is currently in the process of claiming a change of domicile to an affected region, those who are concerned about the 183-day statutory threshold, and those completing a 548-day period in the Caribbean, please contact one of our Hodgson Russ SALT attorneys with any questions or concerns about your residency situation and the impact of Harvey or Irma.

We hope everyone and their loved ones remain safe during these storms.

Elizabeth Pascal  
epascal@hodgsonruss.com  
716.848.1622

