


Minnesota Residency Law Update

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Overview

- Residency law basics
- Recent Minnesota Supreme Court Cases
 - *Sanchez v. Commissioner of Revenue* (Minn. 2009)
 - *Larson v. Commissioner of Revenue* (Minn. 2013)
 - *Mauer v. Commissioner of Revenue* (Minn. 2013)
- Governor Dayton’s proposed “snowbird” rule
- Tips for residency changes and audits


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Taxation of Residents and Non-residents

- Minnesota taxes 100% of a resident’s income.
- Minnesota taxes only the Minnesota source income of a non-resident.

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Two Ways to Be a Minnesota Resident

- Physical Presence
 - More than half the year in Minnesota and
 - Place of abode in Minnesota
- Intent
 - Traditional subjective test
 - 26 objective factors

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Physical Presence: Counting Days



- Partial Days
 - Any part of a day spent in the state is a Minnesota day
- In-Transit Rule
 - A person who is “in transit” between two points and who passes through Minnesota is not present in Minnesota

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Recordkeeping



- Taxpayers have the burden to prove where they spent their time
 - Contemporaneous calendars
 - Flight records (especially boarding passes)
 - Credit card statements
 - Cell phone records
 - Bank records

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Intent Residency



- Basic Intent Residency Test:
 - bodily presence + subjective intent to make a place one's home
- Presumptions
 - Only one domicile at a time
 - Home is where family/spouse is located
 - A domicile once in existence is presumed to continue

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Intent Residency: Factors

- Minnesota's 26 Factors
 - No one factor is determinative
- Factors are not "steps" or "requirements" to change domicile; they provide evidence of intent



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Intent Residency: Factors (cont.)



- "Gotcha" Factors
- | | |
|----------------------|----------------------------|
| – Driver's license | – Hunting/fishing licenses |
| – Voter registration | – Bank accounts |
| – Homestead | – Where mail received |
| – Car registrations | |

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Intent Residency: Factors (cont.)



- Minnesota views some factors as more important than others:
 - Time spent
 - Community involvement (business, clubs, places of worship, etc.)
 - Size/price of house in new state versus the house in Minnesota
 - Continuing employment in Minnesota

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Establishing Domicile: *Sanchez (Minn. 2009)*



- Physical presence in new state is required
- Integration into community in new state is a consideration
- Severing all connections with Minnesota is not enough

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Abandoning Domicile: *Larson (Minn. 2013)*



- Physical relocation does not change domicile
- Compare Minnesota connections with connections in new state
- Taxpayer's actions in later years are relevant to analyzing intent in year of change

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Abandoning Domicile *Mauer (Minn. 2003)*



- The 26 factors are to be weighed in each particular case. The Court rejected “bean counting” of the factors.
- Because Mauer had more ____ in Minnesota than Florida, several factors weighed in favor of a Minnesota domicile.
- There is a difference between “motive” and “intent” to become a domiciliary of another state. While Mauer had “motive” he did not have “intent.”
- The Commissioner of Revenue and the Tax Court should apply the Department’s factors in a consistent and equitable manner.

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Governor Dayton’s “Snowbird” Rule: (HF677 and SF552)



- Defines “part-year resident” as someone whose domicile is outside Minnesota, but who has a home in Minnesota and who spends more than 60 days in the state.
 - Medical exception to 60 days (medical treatment by the taxpayer, or the spouse, child, or parent of the taxpayer)
- “Part-year residents” would be taxed on a portion of their income (to the extent they spend time in Minnesota)

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Tips: Making a Residency Change



- Think carefully about your reasons for changing your residence (aside from tax savings)
- Cover all “gotcha” factors
- Spend more time in new state than anywhere else (more than half of the year)
- Spend as little time in Minnesota as possible (well under half of the year)

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Tips: Making a Residency Change



- Have more connections in new state than in Minnesota (business relationships, banking, clubs, associations, etc.)
- Keep excellent records of your location every day of the year
- Track days carefully and accurately
- Purchase a home in new state
- Remember that it's not just staying out of Minnesota for half the year that matters

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Tips: Minnesota Residency Audits



- Do not fill out the initial residency questionnaire by yourself
- Make sure you have a compelling narrative in support of your residency change
- Present the auditor with a well-supported day count
- Establish and maintain credibility

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Questions?

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