

# Florida Bound: Moving to a Warmer [Tax] Climate

By Helena Jonassen

When the Beatles released *Taxman* in 1966, the band members were subject to tax surcharges as high as 98 percent. Within a few years, the Rolling Stones, the Kinks (who wrote *Sunny Afternoon*, another song about the surprisingly rock 'n roll subject of tax), David Bowie, Cat Stevens, and many others had fled Britain. Americans have never had that option. Unlike those of all other developed countries, citizens and permanent residents of the United States are taxed on worldwide income.

Tax exile in the United States tends to be a domestic affair, as families move from high-tax to low-tax or no-tax states. The differences can be startling – 8.82% personal income tax and up to 16% in estate tax in New York; none in Florida – as illustrated in the sample charts on page 23. Just how important a role personal tax plays in these moves is difficult to measure, as Howard Cure notes on page 13. The real drivers can, of course, include corporate tax advantages, the climate, and recreational interests.

In any case, the tax angle can be a headache. State taxing authorities are increasingly aggressive in challenging moves. Each state has its own rules on whether a taxpayer is subject to their income tax, but most include a count

of how many days the self-declared former resident spends in his or her former domicile, with six months the general line in the sand. In New York, which is losing tens of thousands of people to Florida each year, more than to any other state, according to the U.S. Census Bureau, a person is still considered a resident for income tax purposes if he or she spends 183 days or more in the state.

*The more substantial the property, the more intense the scrutiny*

While the terms *residence* and *domicile* are often used interchangeably, they have very specific meanings for both income

tax and estate tax purposes, as defined by individual state laws. Residence simply requires physical presence in a state, while domicile requires physical presence in the state and the intent to make that state the fixed or permanent residence. While a person can have a residence in many places, as a general rule, they can only have one domicile.

The more substantial the retained property, the more intense the scrutiny is likely to be. Where are the people and objects that are considered near and dear to the taxpayer? Business and family relationships, children's school attendance, credit card receipts, travel documents, E-Z pass transactions, phone records, vet bills and more; name it and state authorities have probably thought to examine it to verify the taxpayer's assertions.



The burden of proof falls on the taxpayer, not on the state. The individual must be able to show that not only has he or she spent the required time out of the state at another residence but also that the intention is clearly to change the domicile. While there is no bright line test that determines domicile, individuals can draw on all of the same materials in their defense, in the event of a residency audit. Location apps, which use cellular network, Wi-Fi, and GPS technology to determine location, can augment hard evidence.

It should be noted that there is no double jeopardy when it comes taxation. More than one state could claim that a taxpayer is resident for income tax purposes and likewise could claim that a decedent was domiciled in the state for estate tax purposes. While these instances are rare, residency audits are not – and they are nothing to sing about. Taxpayers who wish to change domicile – for whatever reason or combination of reasons – should

follow a clear protocol (see the checklist page 24), be mindful of the potential traps, keep meticulous records, and seek expert advice.

**Helena Jonassen** is a Partner and Wealth & Fiduciary Advisor at Evercore Wealth Management and Evercore Trust Company, N.A. She can be contacted at [helena.jonassen@evercore.com](mailto:helena.jonassen@evercore.com).

#### Highest Marginal Imposed State Estate Tax Rate

State	Highest Marginal Imposed State Estate Tax Rate	Effective State Estate Tax Rate
<b>California</b>	0%	0%
<b>Connecticut</b>	12%	7.2%
<b>Maryland</b>	16%	9.6%
<b>Massachusetts</b>	16%	9.6%
<b>Minnesota</b>	16%	9.6%
<b>New York</b>	16%	9.6%
<b>Florida</b>	0%	0%

Source: Evercore Wealth Management

#### Sample State Income Tax Comparative

State	Highest Marginal State Income Tax Rate
<b>California</b>	13.3%
<b>Connecticut</b>	6.99%
<b>Maryland</b>	5.75%
<b>Massachusetts</b>	5.05%
<b>Minnesota</b>	9.85%
<b>New York (state only)</b>	8.82%
<b>Florida</b>	0%

Source: Evercore Wealth Management

## Moving to Florida? A Before-Takeoff Checklist:

The Road to a Florida Domicile

Action	Date Completed
File a Declaration of Domicile (not required, but worth doing)	
Obtain a Florida driver's license and relinquish the other state license	
Register automobiles, boats and other vehicles in Florida and relinquish other state registrations and other state privileges (e.g., parking exemptions, resident fishing and hunting licenses)	
Register to vote and then vote in Florida; notify voting officials of the previous residence	
Update estate planning documents to conform with Florida law and declare Florida as the residence	
List Florida as the residence in all deeds and other documents	
Receive mail at the Florida address	
Open a Florida bank account, change credit card accounts to the new address	
Notify the IRS of the address change; use the Florida address in filing the federal income tax return and, if possible, file final tax returns in the state of previous residence	
File as a nonresident tax return, rather than a resident return, as needed, (e.g., New York income tax return if there is New York income)	
Apply for the Florida Homestead Exemption	
Notify the Social Security Administration of the change of address	
Renew passports in Florida	
Register the Florida address as the primary residence with insurance companies and Medicare	
Obtain a safe deposit box in Florida and move valuables to Florida	
Consider acquiring a larger or more expensive home in Florida, or remodeling or redecorating it, and acquiring a smaller or less expensive home, and document any steps taken in doing so	
Transfer works of art, expensive furniture, heirlooms, and other valuable or sentimental personal items to Florida	
License pets in Florida	
Direct all income, pension, dividend and interest checks and other payments to the Florida address or deposited into a Florida bank account	
Notify social clubs of the Florida address for their membership rolls; affiliate with Florida organizations	
Host family gatherings and social activities in Florida	
Stay in Florida as long as practically possible each year	
Use the Florida residence/address whenever possible (such as when registering at a hotel)	
Consider acquiring cemetery plots in Florida	
If move is recommended by a physician due to health concerns, the physician should document the medical issues accordingly	
Consider using Florida professionals	
Abide by the statutory limit for residency (e.g., New York state) and document accordingly. Count your days in new domicile – staying there more than 183 days is very helpful, but staying out of the prior domicile more than 183 days is essential. Vacations count as time away from the new and old domiciles.	

<b>NEW YORK</b> 55 East 52nd Street New York, NY 10055 212.822.7620	<b>MINNEAPOLIS</b> 150 S. Fifth Street, Suite 1330 Minneapolis, MN 55402 612.656.2820	<b>PALM BEACH</b> 515 North Flagler Drive, Suite 702 West Palm Beach, FL 33401 561.812.1010	<b>SAN FRANCISCO</b> 425 California Street Suite 1500 San Francisco, CA 94104 415.288.3000
Jay Springer Partner 212.822.7621 springer@evercore.com	Martha Pomerantz Partner 612.656.2821 martha.pomerantz@evercore.com	Michael Cozene Partner 561.812.1010 michael.cozene@evercore.com	Keith McWilliams Partner 415.288.3010 keith.mcwilliams@evercore.com
<b>TAMPA</b> 4030 Boy Scout Boulevard, Suite 475 Tampa, FL 33607 813.313.1190	<b>WILMINGTON</b> Evercore Trust Company, N.A. 300 Delaware Avenue, Suite 1225 Wilmington, DE 19801 302.304.7362	<b>EDITORIAL AND MEDIA</b> Aline Sullivan Editor 203.918.3389 aline.sullivan@evercore.com	
Julio Castro Partner 813.313.1192 julio.castro@evercore.com	Darlene Marchesani Managing Director and Trust Counsel 302.304.7361 darlene.marchesani@evercore.com		

Evercore Wealth Management, LLC ("EWM") is an investment adviser registered with the U.S. Securities and Exchange Commission under the Investment Advisers Act of 1940. EWM prepared this material for informational purposes only and should not be viewed as advice or recommendations with respect to asset allocation or any particular investment. It is not our intention to state or imply in any manner that past results are an indication of future performance. Future results cannot be guaranteed and a loss of principal may occur. This material does not constitute financial, investment, accounting, tax or legal advice. It does not constitute an offer to buy or sell or a solicitation of any offer to buy or sell any security/instrument, or to participate in any trading strategy. The securities/instruments discussed in this material may not be suitable for all investors. The appropriateness of a particular investment or strategy will depend on an investor's individual circumstances and objectives. Specific needs of a client must be reviewed and assessed before determining the proper investment objective and asset allocation, which may be adjusted to market circumstances. EWM may make investment decisions for its clients that are different from or inconsistent with the analysis in this report. EWM clients may invest in categories of securities or other instruments not covered in this report. Descriptions provided in this material are not substitutes for disclosure in offering documents for particular investment products. Any specific holdings discussed do not represent all of the securities purchased, sold or recommended by EWM, and the reader should not assume that investments in the companies identified and discussed were or will be profitable. Upon request, we will furnish a list of all securities recommended to clients during the past year. Performance results for individual accounts may vary due to the timing of investments, additions/withdrawals, length of relationship, and size of positions, among other reasons. Prospective investors should perform their own investigation and evaluation of investment options, should ask EWM for additional information if needed, and should consult their own attorney and other advisors. Indices are unmanaged and do not reflect fees or transaction expenses. You cannot invest directly in an index. References to benchmarks or indices are provided for information only. The securities discussed herein were holdings during the quarter. They will not always be the highest performing securities in the portfolio, but rather will have some characteristic of significance relevant to the article (e.g., reported news or event, a new contract, acquisition/divestiture, financing/refinancing, revenue or earnings, changes to management, change in relative valuation, plant strike, product recall, court ruling). EWM obtained this information from multiple sources believed to be reliable as of the date of publication; EWM, however, makes no representations as to the accuracy or completeness of such third party information. Unless otherwise noted, any recommendations, opinions and analysis herein reflect our judgment at the date of this report and are subject to change. EWM has no obligation to update, modify or amend this information or to otherwise notify a reader thereof in the event that any such information becomes outdated, inaccurate, or incomplete. EWM's Privacy Policy is available upon request. EWM is compensated for the investment advisory services it provides, generally based on a percentage of assets under management. In addition to the investment management fees charged, clients may be responsible for additional expenses, such as brokerage fees, custody fees, and fees and expenses charged by third-party mutual funds, pooled investment vehicles, and third-party managers that may be recommended to clients. A complete description of EWM's advisory fees is available in Part 2A of EWM's Form ADV. Trust and custody services are provided by Evercore Trust Company, N.A., a national trust bank regulated by the Office of the Comptroller of the Currency and an affiliate of EWM. The use of any word or phrase contained herein that could be considered superlative is not intended to imply that EWM is the only firm capable of providing adequate advisory services. This document is prepared for the use of EWM clients and prospective clients and may not be redistributed, retransmitted or disclosed, in whole or in part, or in any form or manner, without the express written consent of EWM. This document includes projections or other forward-looking statements regarding future events, targets, intentions or expectations. Due to various risks and uncertainties, actual events or results may differ materially from those reflected or contemplated in such forward-looking statements. There is no guarantee that projected returns or risk assumptions will be realized or that an investment strategy will be successful.

EWM and its affiliates engage in a wide range of activities for their own account, and for their clients and the accounts of their clients, including corporate finance, mergers and acquisitions, equity sales, trading and research, private equity, and asset management and related activities. The observations and views expressed herein have been prepared by the individual author and, unless otherwise specifically stated, are solely those of the individual author and not EWM or any of its affiliates or any of their respective personnel. Other professionals of EWM and its affiliates may provide oral or written advice, services, market commentary, trading strategies and other material to clients that reflect observations and views that are contrary to those expressed herein. The author of this material may have discussed the information contained herein with others within or outside EWM and the author, EWM and/or such other persons may have already acted on the basis of this information (including by communicating the information contained herein to other customers of EWM and its affiliates).