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Unsuccessful Taxpayer Change in Domicile from New York to Florida Shows that Courts will Follow the Money

Tax Talks on **November 17, 2025**

Snowbirds, take notice. In October 2025, the New York State Tax Appeals Tribunal issued a decision regarding a couple's claimed change in domicile from New York to Florida for the 2018 and 2019 tax years. *Matter of Hoff and Ocorr-Hoff,* DTA No. 850209 *(N.Y.S. Tax Appeals Trib. Oct. 9, 2025)*. The case illustrates the challenges involved even when taxpayers make diligent attempts to get their checklist of formal requirements right.

The Tribunal examined the standard factors for change of domicile, including (a) home, (b) time, (c) business ties, (d) social ties, (e) family ties, and (f) other evidence, with none being deemed dispositive. Citing well-established case law, the Tribunal noted that the taxpayer must prove a change in domicile by clear and convincing evidence, a high evidentiary standard, and further observed that the Division of Taxation's determination that the taxpayers had not changed their domicile was presumed correct.

The taxpayers here had an uphill battle in establishing that they had moved from their long-time home in upstate New York to Florida in 2018 and 2019. The Hoffs had purchased a home in Florida in 2014 and maintained dual residences since that time. The Hoffs had owned their New York home since 2011, however, and it had been largely unchanged as their primary residence.

Regarding time spent in each location, the Tribunal used the taxpayers' Verizon statements to establish the number of days spent in each location. Cell phone records reflected that the taxpayers spent 186 days in New York, 131 days in Florida and 48 days in other locations in 2018. In 2019, the Hoffs spent 164 days in New York, 153.5 days in Florida and 47.5 days in other locations.

Most importantly, the Tribunal reviewed the couple's sources of income in 2018 and 2019, under the "business ties" factor. Mr. Hoff owned a New York business. Despite having a plan in place to separate himself from and eventually sell the business, Mr. Hoff earned a significant salary from the business in 2018 and 2019. He also maintained the business accounts and traveled on behalf of the business during the audit period. Mrs. Ocorr-Hoff testified that she started businesses in Florida, but no evidence was offered in support of this contention and, conversely, tax returns show that she continued her business in New York.

The Tribunal discussed at length the Hoffs' efforts to make formal declarations regarding changes in domicile in 2018 and 2019. The Hoffs established strong social connections in Florida, were active in their homeowners' association and a Florida country club, and changed their drivers' licenses and voter registrations, among other steps taken to establish Florida domicile. The Tribunal noted, though, that many of the items about which the Hoffs testified were uncorroborated by contemporaneous evidence. The taxpayers either testified to the facts without supporting documentation or provided post-2019 documents in support.

As the Tribunal stated, "[s]o-called formal declarations of domicile, such as voter registration, have lost their importance in recent years as courts have recognized their self-serving nature, while informal declarations and acts of the person have been given greater recognition in resolving the question of domicile." Ultimately, the Tribunal affirmed the determination of the Division of Taxation and the Administrative Law Judge who had previously reviewed the case, finding that the taxpayers may have intended to change their domicile to Florida "at some point" but that they had not accomplished the move in the tax years at issue.

There are some important takeaways for those considering a change in tax domicile, particularly between New York and Florida:

- Expect a full inquiry from the Division of Taxation for the tax year of a change in domicile. Do not assume that the change will fly under the radar.
- Although not one of the textbook factors in the case law, the taxpayer's source of income appears to have been the paramount element in this case. If the taxpayer is still actively engaged in a trade or business but claims to have a domicile elsewhere, the Tribunal will likely view that claim skeptically – even in the era of digital nomadism.

- Anticipate that the Division of Taxation will request cell phone records, among other types of third-party documentation, to corroborate the number of days the taxpayers claim in each location.
- Making formal declarations (drivers licenses, voter registration, etc.) and fulfilling checklists are important as well, but they likely will not be dispositive. Courts most often focus on these elements when taxpayers fail to get them right, as evidence of lack of a change in domicile, rather than relying on them to support the taxpayer's affirmative case.

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