

Domicile and taxes

Thomas Campaniello had apartments in New York City and in Florida. He also had a sizeable income. In 2006 Campaniello decided to change his domicile to Florida but still spend time in both states. That is easier said than done, as far as the taxing authorities are concerned. You can't just declare where you want to be taxed. Under New York State law one must prove "by clear and convincing evidence" that the New York domicile has been abandoned.

Here's what Campaniello did right. He kept very clear records, proving that he spent less than six months in New York (169 days, to be exact). He provided the tax authorities with summaries of his trips, copies of his passport pages proving his foreign travel, credit card and cell phone statements for all of 2007. He had a Florida driver's license, owned his car there, and kept important personal items, such as his doctoral diploma, in his Key Biscayne apartment.

Here's what Campaniello did wrong, according to the Administrative Law Judge who heard his case. Although he spent more time in Florida than in New York, he did return to New York for some portion of almost every week. He received bills at his New York address, had family ties in New York, kept personal belongings and clothing in his New York apartment, ran his Florida and New York businesses from his New York offices, and continued seeing medical professionals in New York. He did not clearly surrender his New York domicile, in the eyes of the taxing authorities.

The conclusion: Campianeillo owed New York tax as a full-time resident, not as a part-time resident, as he had filed. That meant that there was a shortfall of \$319,009.00 in New York State taxes, \$169,772.00 in New York City taxes, plus penalties and interest that brought the total owed to \$709,429.00.

What else might Campaniello have done to bolster his argument, short of ending his contacts with New York completely? Planners sometimes suggest such actions as registering to vote in the new domicile, joining a local place of worship, having all mail sent to the new address, and retaining new lawyers, accountants and doctors in the new domicile. If one is moving to Florida, it may be useful to apply for the Homestead Exemption on the Florida residence.

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