July 14, 2016

Estate Planning Update July 2016 - Domicile Planning

As mentioned in the above article, the stakes are high when it comes to changing domicile. In making that determination, the tax authorities and the courts look at whether you have changed your "pattern of life." Accordingly, our domicile planning process consists of the following steps:

1. Meet to discuss your current ties to Old State and other states, your proposed new domicile, and the changes you intend to make – whether you will be retaining a home in Old State, your likely number of days in each relevant jurisdiction, your business and social contacts, and other key factors.
2. Develop a plan for accomplishing the change of domicile. A written summary (which is protected by attorney-client privilege) will help you evaluate whether the proposed plan is likely to work, given the way you want to lead your life.
3. Once the plan is finalized, prepare a detailed task list, showing (i) the steps you will take in order to implement your plan, and (ii) documentation to be obtained and retained in order to support your position in case of an audit. *Any plan to change domicile must be accompanied by fastidious attention to obtaining and maintaining the requisite documentation.*
4. Follow up as needed to make sure the plan is on track, to respond to any issues or changes of circumstances, and to review the methodology being used to track day counts.

Part of any domicile review is weighing the risks and benefits of the position taken and deciding how to balance tax goals and personal goals. We are happy to assist in this process. There is some good news on domicile – Connecticut, New York, New Jersey and Massachusetts all specifically acknowledge that continuing to make charitable contributions to charities in those states will not be considered a factor in determining domicile. For more information, see Day Pitney's February 2016 Nonprofit Newsletter.