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More wealthy migrate south to avoid tax hikes

Specter of higher federal and state burdens hastens exodus from North

By Hilary Johnson

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For years, wealthy retirees from high-tax states in the Northeast and Midwest have been streaming to sunny, low-tax Florida. That stream is now turning into a flood.

"We haven't had a situation like this in quite a few years," said Greg Rosica, a tax partner at Ernst & Young LLP.

"We have this impending tax increase, and people are trying to look for ways to hide from that, but they're not seeing many from the federal perspective. One of the ways they're looking to do it is changing their state income tax rate," Mr. Rosica said.

"This move to no-tax states is absolutely big business," said Thomas Handler, a partner at the law firm Handler Thayer LLP. "People are doing it all day long, and it's ramping up."

In addition to Florida, the states that don't tax income are Alaska, Nevada, South Dakota, Texas, Washington and Wyoming. New Hampshire and Tennessee tax only dividend and interest income.

Many states also impose their own estate taxes, which will only add to the tax burden of those who will be subject to a federal estate tax if it is revived.

In New York, the marginal state individual income tax rate on those who earn more than $500,000 a year has gone from about 7% last year — when Buffalo Sabres owner Tom Golisano said he was exiting the state for Florida — to almost 9% this year.

Tax experts warn, however, that for wealthy individuals tempted to follow him, any move from a high-tax state to a less onerous environment shouldn't be taken lightly.

For example, living in a Florida condo for the requisite number of days a year and returning to the family homestead up north for the remainder just doesn't cut it under Internal Revenue Service residency rules, said Gary Phillips, an attorney at Cole Schotz Meisel Forman & Leonard PA, a tax, trust and estate law firm.

He and his colleagues recently wrote “On the Road to Florida: Cole's Practical Guide to Changing Your Residence from New Jersey or New York.”

The firm published the book because of the number of questions members received on the topic and the popular misconceptions surrounding it. Clients often underestimate just how much they will have to change their lifestyle, especially when it comes to “renouncing” their old state, Mr. Phillips said.

“It has to be a clear abandoning,” he said. “You have to move the items near and dear to you,” such as heirlooms and art collections, and of course the family pet.

The book includes a checklist of items to consider, ranging from the obvious, such as the location of the individual's place of business, to the less obvious, such as the location of the individual's investment adviser, attorney and cemetery plot.

These could be factors that state tax agents take into consideration when judging residency for tax purposes, Mr. Phillips said. “The best presentation in an audit is being consistent throughout,” he said.

“If you're claiming Florida residency, you don't want to have one outlier fact that shows you are still tied to New York, such as not having changed your driver's license, voter's registration or mailing address for important documents,” Mr. Phillips said. “That would be the one thing auditors can focus on, and it hurts your case.”

In other words, the wealthy have to make the decision based not just on where state taxes are lowest but where the heart is.

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