



Year End Giving Tips

Earlier is better. Beat the year-end rush by sending gifts early. Also, more complex gifts, such as an IRA distribution or a gift of stock, may take longer to process, so please allow enough time.

Notify us when transferring stock. It is important to contact us when donating securities so that we may credit the gift appropriately. Also, please disclose the client's name when transferring the shares so we can identify them easily.

Use our online resources. Using our website, cnycf.org, donor-advised fundholders can make grant suggestions, replenish a fund, access our stock transfer form, and much more.

Dates to Know: Gifts credited for 2017 tax returns must be delivered to the Community Foundation by 4:30 p.m. on December 31, postmarked on or before December 31, or given online by 11:59 p.m. on December 31.



Florida Residency: It Doesn't Have to Change New York State Charitable Giving by *Marion Hancock Fish, Esq.*

Marion Hancock Fish, Esq. is a former board chair of the Community Foundation and partner at Hancock Estabrook, LLP. She focuses her practice on estate planning, transfer-of-wealth tax issues, family business planning and succession, charitable giving, not-for-profit law and elder law and special needs administration. In the article below, Marion discusses the issues around local charitable giving for people who now reside in Florida and other states.

Fall is here and Central New York snowbirds are making travel plans to flee the Empire State. While weather is certainly one reason to fly off to Florida, many snowbirds are heading south for another reason – to establish or maintain their non-New York residency for tax purposes. Recent changes in the law have reduced the impact of New York estate tax, but New York's high income tax rates remain a strong motivator to establish residency outside New York. This article focuses on what this does – and doesn't – mean for snowbirds and their advisors.

New York taxes its residents on income from all sources. On the other hand, nonresidents are only subject to tax on income derived from New York sources. Therefore, an individual who can establish legal residency outside New York will eliminate or at least minimize his exposure to New York tax.

Section 605(b) of the New York Tax Law sets out the analysis to determine a taxpayer's residency status. The initial question is whether the taxpayer is "domiciled" in New York. Although in everyday conversation "residence" and "domicile" are used interchangeably, here they have different meanings. "Domicile" is the place an individual intends to make her permanent home – the place to which she returns after absence. And though a person may have several residences, she may only have one "domicile."

These are the five primary factors to determine domicile under New York Law:

- The pattern of use of the New York residence
- The taxpayer's New York business ties
- Where the taxpayer spends her time
- The physical location of items "near and dear"
- The location of family

Beyond these five primary factors, tax auditors may also consider factors such as: addresses on financial records, location and registration of automobiles, voter registration and location of safe deposit boxes. Even if a taxpayer is not considered "domiciled" in New York, the snowbird may still be taxed as a New Yorker if he spends more than half the year (or 183 days) in New York, and maintains a New York year-round residence.

To help snowbird clients navigate these complex rules, advisors have developed widely used checklists of "do's and don'ts". Often included in such lists is the recommendation that the client sever all



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Contact Us

Our development team is available to assist you with the information and tools that help your clients achieve their charitable goals.

Thomas Griffith, ChFC®, CAP®
Director of Gift Planning
315.883.5544
TGriffith@cnycf.org

Peter Dunn, JD
President & CEO
315.883.5530
PDunn@cnycf.org

431 EAST FAYETTE STREET, SUITE 100, SYRACUSE, NY 13202 • 315.422.9538 • INFO@CNYCF.ORG • CNYCF.ORG



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13202
SYRACUSE, NEW YORK
SUITE 100
431 EAST FAYETTE STREET
.....
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ties with local charities. In response, clients have shifted their charitable support out of state, ceasing donations to organizations they and their families have supported for decades, and perhaps generations.

This is not the intent of New York law. In fact, advisors and clients will be reassured to know the New York Tax Law and published tax audit guidelines specifically state that **where a taxpayer volunteers and to what charity a taxpayer donates are not relevant in determining the taxpayer's domicile.** The New York legislature amended Section 605 of the Tax Law in 1994 to clarify that charitable support and volunteer work “shall not be used in any manner to determine where an individual is domiciled”.

Professional advisors should revisit and revise their guidance to reflect this information. Surely, clients will welcome this news – one less item on the snowbird checklist and, more meaningfully, a green light to continue supporting the charities they have supported their entire lives.

For more information on this topic and other ways of supporting Central New York, I encourage you to connect your charitably inclined clients with the Central New York Community Foundation by contacting Tom Griffith, director of gift planning, at tgriffith@cnycf.org.