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## A Domicile Story

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We read with interest this week the story regarding Derek Jeter listing his New York condo for sale, not because of the startling price (\$20 million), but for the potential domicile considerations and where Jeter is considered to be a resident for income tax purposes. We have fielded many inquiries on this topic over the past few years, and thought this story was a good reminder to people that where you are domiciled, or alternatively, where you are considered to be a statutory resident, can have a major financial impact.

Using New York as an example (the same analysis is applicable to other states, including New Jersey), if an individual is domiciled in New York, he or she generally is a New York resident for income tax purposes. Even if not domiciled in New York, an individual may be a statutory New York resident for income tax purposes if the individual (i) maintains a permanent place of abode in New York and (ii) spends in the aggregate more than 183 days of the taxable year in New York.

The determination of whether an individual is domiciled in New York or a resident is important for income tax purposes. While nonresident taxpayers are subject to New York income tax only on New York source income, resident taxpayers are taxed on all income, irrespective of whether the income is generated in New York.

In Jeter's case, while he owns his apartment, the taxing authorities have two avenues to argue that he is a New York resident – first that he is domiciled in New York, or second that even if he is not domiciled in New

York, because he maintains a permanent home in New York and assuming he was in New York for more than 183 days, he is a statutory resident for New York income tax purposes and should be taxed as such.

Now that he is selling his New York apartment, New York may not have the ability to argue that Jeter is a statutory resident since he may no longer be maintaining a permanent home. If New York were to pursue Jeter again (he was previously in a domicile dispute with New York for the 2001-2003 tax years that was settled out of court), they may only have the domicile argument to raise, and not the statutory resident argument.

What does this all mean? On a technical level, if Jeter were to spend more than 183 days in New York after he sells his apartment, it would not automatically classify him as a New York resident since the “183 day test” requires the maintenance of a permanent home. The number of days spent in New York is one of the primary factors when determining domicile so it is still not recommended that he spend more than 183 days in New York. Earlier this summer, the Yankees public address announcer, Bob Sheppard, passed away, and it was widely reported that no Yankee (including Yankee captain Jeter) attended his funeral in New York, which was over All-Star weekend in California. In Jeter’s case, one is left to wonder whether his not attending was simply due to the fact that his attendance would require extra days spent in New York which could get him closer to 183 days spent in New York and thus being classified as a statutory resident.

We have written a guidebook on domicile and how to change your residence from New York or New Jersey to Florida. If you would like a copy, please email Melissa Shuman (Director of Marketing) at [MShuman@coleschotz.com](mailto:MShuman@coleschotz.com).

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