You Left Connecticut (or Never Came) and Think You're Not a Connecticut Resident?

The State's Long Arm for Estate Tax Purposes and Other Unpleasant Tax Surprises

By BETH BRUNALLI AND LUKE TASHJIAN

In our increasingly mobile society, individuals frequently change their residence by relocating to a new state or owning residences in multiple states, but an individual's residence does not necessarily dictate in what state the individual is a resident for tax purposes. The determination of which state an individual is a resident of has significant implications for state taxation, including where and how an individual is taxed.

Under the Connecticut statutes, an income tax is imposed on the taxable income of each *resident* of Connecticut,[1] a gift tax is imposed on taxable gifts made by *residents* of Connecticut,[2] and an estate tax is imposed on the taxable estate of each person who was a *resident* of Connecticut at the time of the person's death.[3] The Connecticut estate, gift, and income taxes all examine if a person is a resident of Connecticut, however, there is no uniform residency test. The most frequently considered distinction among the residency tests is that whereas a subjective domicile-based test is applied for income, estate and gift tax purposes, an additional statutory residence test is only applied for income tax purposes. Yet, the recent case of *Estate of Anderson v. Commissioner of Revenue Services*[4] highlights that differences among the tests as to burden of proof may be more significant.

Due to the variation among the residency tests for Connecticut tax purposes, an individual may no longer be a Connecticut resident for income tax purposes, but be presumed a Connecticut resident for estate tax purposes. Moreover, an individual who is no longer a Connecticut resident for income tax purposes may incur unanticipated or accelerated Connecticut income tax liabilities. Yet the cost of challenging a residency determination can be considerable not only because of the accrual of interest, but also because of the risk of an award of attorney's fees against a taxpayer in Connecticut.

Domiciled-Based Residency Tests for Income, Estate and Gift Tax Purposes

Common among the residency tests for Connecticut estate, gift and income taxes is the examination of the person's domicile. For estate and gift tax purposes, a similar test is used to determine if a person is a resident and, in both instances, the test examines domicile.[5] Similar to the domiciled-based residency test for estate and gift tax purposes, there is a domiciled-based residency test for income tax purposes. However, for income tax purposes, there is a second residency test, which is the statutory resident test, that is used to determine if a non-domiciliary of Connecticut will still be treated as a resident of Connecticut for income tax purposes.

Domicile is a common law concept. The establishment of a domicile requires two elements, which are (i) an actual residence in a place and (ii) the intention to make that place a permanent home to which the individual intends to return whenever absent.[6] A person can only have one domicile and importantly, once established, a person's domicile cannot change until a new domicile is established.[7]

The subjective nature of one's domicile makes the determination of domicile a fact specific inquiry. Similar subjective factors are examined under the domicile test for income,[8] estate,[9] and gift[10] tax purposes. The income tax regulations set forth a non-exclusive list of subjective factors, and in *Estate of Anderson*, the court applied these factors to an estate tax determination. Prior to itemizing the factors, the regulations espouse the following general principles:

> "Declarations [of domicile] shall be given due weight, but they shall not be conclusive if they are contradicted by actual conduct. The fact that an individual registers and votes in one place is important but not necessarily conclusive, especially if the facts indicate that he or she did this merely to escape taxation in some other place… If a person has multiple homes, then the length of time customarily spent at each home is important, but is not necessarily conclusive."[11] Spouses generally have the same domicile.[12] Intention to make a place one's home is a question of fact.[13] To establish a change of domicile a party must (x) voluntarily abandon his or her existing domicile and (y) voluntarily establish a new residence in and permanently reside in a new state."[14]

Image credit: sakchai vongsasiripat/iGetty Images

Following these general principles, the income regulations set forth the following non-exclusive list of twenty-eight subjective factors:

"(A) location of domicile for prior years;
(B) where the individual votes or is registered to vote…;
(C) status as a student;
(D) location of employment;
(E) classification of employment as temporary or permanent;
(F) location of newly acquired living quarters, whether owned or rented;
(G) present status of former living quarters, i.e., whether it was sold, offered for sale, rented or available for rent to another;
(H) whether a Connecticut veteran's exemption for real or personal property tax has been claimed;
(I) ownership of other real property;
(J) jurisdiction in which a valid driver's license was issued and type of license;
(K) jurisdiction from which any professional licenses were issued;
(L) location of the individual's union membership;
(M) jurisdiction from which any motor vehicle registration was issued and the actual physical location of the vehicles;
(N) whether resident or nonresident fishing or hunting licenses were purchased;
(O) whether an income tax return has been filed, as a resident or nonresident, with Connecticut or another jurisdiction;
(P) whether the individual has fulfilled the tax obligations required of a resident;
(Q) location of any bank accounts, especially…the most active checking account;
(R) location of other transactions with financial institutions, including rental of a safe deposit box;
(S) location of the place of worship at which the individual is a member;
(T) location of business relationships and the place where business is transacted;
(U) location of social, fraternal or athletic organizations or clubs, or a lodge or country club, in which the individual is a member;
(V) address where mail is received;
(W) percentage of time (excluding hours of employment) that the individual is physically present in Connecticut and the percentage of time (excluding hours of employment) that the individual is physically present in each jurisdiction other than Connecticut;
(X) location of jurisdiction from which unemployment compensation benefits are received;
(Y) location of schools at which the individual or the individual's immediate family attend classes, and whether resident or nonresident tuition was charged;
(Z) statements made to any insurance company concerning the individual's residence, on which the insurance is based;
(AA) location of most professional contacts of the individual and his or her immediate family (e.g., physicians, attorneys); and
(BB) location where pets are licensed."[15]

None of these factors are alone determinative, but the Department of Revenue Services applies a weighting schedule to these

Image credit: Grace Cary/iGetty Images

factors and the court in *Estate of Anderson* also applied a weighting. Under these weighting schedules less weight is afforded to one-time administrative elections and greater weight is afforded to the following factors:

(A) status of current and former residence and whether owned or rented;
(B) the amount of time spent in each state; and
(C) the location of:
    a. domicile in prior years,
    b. items that are near and dear,
    c. family members and
    d. social connections.

Time spent in Connecticut is not determinative, but Connecticut domicile cases have heavily weighted the state in which an individual spends the most time. In *Estate of Anderson*,[16] in holding that the decedent was a Connecticut domiciliary for estate tax purposes, the court very heavily weighted that the decedent spent more time in Connecticut than any other state, despite the majority of his time being spent outside Connecticut in Florida and Arizona.[17] The court noted that the "consistent, long-term decision to spend more time in Connecticut than any other state" is a strong indication of domicile when the decedent maintained equal personal, social, and property connections to both Connecticut and Florida.[18] The court afforded little weight to one-time administrative elections, such as obtaining a driver's license, registering to vote, or filing a homestead declaration.

The Connecticut courts have correspondingly held a decedent to have changed his domicile from Connecticut when, despite having continued connections to Connecticut, the majority of the decedent's time was spent in a single state outside Connecticut. In *Estate of Krause v. Commissioner*,[19] the decedent maintained a Connecticut business and owned a residence in Connecticut, to which he frequently told people he would return. However, his estranged wife lived in the Connecticut residence and during the four years preceding his death, the decedent lived at his sister's house in Arizona and did not return to Connecticut. The court held that the decedent changed his domicile from Connecticut to Arizona. Similarly, the decedent in *Commissioner v. Estate of Nemeth*[20] was held to have changed his domicile to Florida where he spent about 7 months annually. One-time administrative type changes as well as the location of his professional advisors also favored Florida, but the decedent still had personal, property and business connections to Connecticut. The decedent and his wife, after selling their Connecticut residence and purchasing a Florida residence, initially rented a Connecticut apartment and subsequently purchased a Connecticut condominium, where the decedent spent about 5 months annually. The decedent's family remained in Connecticut, and the decedent remained an owner of a Connecticut business, although he transferred its operations to his son.

Based upon case law, although the factor of time spent in Connecticut is not alone determinative, someone seeking to assert the establishment of a domicile outside of Connecticut should spend less time in Connecticut than the state in which the person asserts he or she is domiciled.

Exceptions to the Domicile-Based Residency Test for Income Tax Purposes Only

Under the domiciled-based residency tests for estate, gift and income tax purposes, a person is a resident of Connecticut if he or she is determined to be domiciled in Connecticut. However, for income tax purposes, there are two exceptions under which a person is not a Connecticut resident even though he is determined to be domiciled in Connecticut.

The first exception is the 30-day rule exception. Under the 30-day rule exception, a person will not be considered a resident in Connecticut if (i) the person did not maintain a permanent place of abode in Connecticut for the entire year, (ii) maintained a permanent place of abode outside of Connecticut for the entire tax year, and (iii) spent no more than 30-days, in aggregate, in Connecticut during the tax year.[21]

The second exception is the 548-day rule exception. Under the 548-day rule exception, a person will not be considered a resident of Connecticut if (i) the person is present in a foreign country or countries for 450 days during a 548-day period, (ii) during such 548-day period, the person neither is present in Connecticut for more than 90 days, nor maintains a permanent place of abode in Connecticut at which the person's spouse (unless legally separated) or minor children are present for more than 90 days, and (iii) during the nonresident portion of the taxable year in which the 548-day period begins as well as the nonresident portion of the taxable year in which the 548-day period ends, the person is not present in Connecticut for more than the number of days that bear the same ratio to 90 as the number of days such portion of the taxable year bears to 548.[22]

Statutory Residence Test for Income Tax Purposes Only

The 30-day rule exception and the 548-day rule exception are both unique to the domicile-based residency test for income tax purposes, but the most distinguishable feature of the residency test for income tax purposes is the application of the statutory resident test to individuals not domiciled in Connecticut. Under the statutory resident test, a person who is not domiciled in Connecticut will be deemed a statutory resident for income tax purposes and be subject to Connecticut income taxes if he or she (i) maintains a permanent place of abode in Connecticut and (ii) is in Connecticut more than 183 days.[23] For the purpose of day counting, a part-day counts as a whole day, unless the person is in Connecticut solely in transit to a location outside of Connecticut.[24] An individual who is not domiciled in Connecticut, but who maintains a permanent place of abode in Connecticut, must maintain records to establish that he or she was not in Connecticut more than 183 days.[25]

A "permanent place of abode" is an owned or leased dwelling place that is permanently maintained by an individual. "A permanent place of abode shall not generally include, during the term of a lease, a dwelling place owned by an individual who leases it to others, not related to the owner or his or her spouse … for a period of at least one year…"[26] Seasonal homes, camps, cottages, barracks, motel rooms, or other structures that do not contain facilities normally found in a dwelling, such as for cooking and bathing, are not generally considered permanent places of abode.[27]

Connecticut's Long Arm: Significance of the Burden of Proof and Standard of Proof in Estate Tax Residency Determinations

The statutory resident test is the most frequently considered distinction among the residency tests for Connecticut income, estate and gift tax purposes, but perhaps of greater significance are differences among the residency tests with respect to burden of proof as indicated by the court in *Estate of Anderson*. Given the fact-in-

tensive and subjective nature of the domicile-based residency test, which party bears the burden of proof can be a decisive factor.

The burden of proving a change of domicile is generally on the party asserting the change both in neighboring states[28] and also in Connecticut for income tax purposes.[29] With respect to Connecticut income tax, the regulations expressly state that "[t]he burden is upon an individual asserting a change of domicile to show that the necessary intention existed."[30] In contrast, in the *Estate of Anderson* decision, despite a finding of fact that the decedent's Connecticut domicile ended during his lifetime, the burden of proof did not shift to Commissioner for estate tax purposes.

In the *Estate of Anderson*, the Court held that the decedent's estate did not prove by clear and convincing evidence that the decedent was not a domiciliary at his death. Underpinning the court's decision was an absolute burden of proof placed upon the decedent's estate to establish the decedent was not domiciled in Connecticut. Despite finding that the decedent's "Connecticut domicile ended in approximately 1972 when [the decedent] sold his Connecticut home, moved to Tennessee to pursue his business interests, and did so without the apparent intention of returning to Connecticut,"[31] the Court did not shift the burden of proof to the Commissioner. The Court's reasoning was based on the specific language of Conn. Gen. Stat. § 12-391(d)(c) which provides "… a tax is imposed upon the transfer of each person who at the time of death was a resident of this state" and the specific language of Conn. Gen. Stat. § 12-391(h)(1) which provides that "[f]or the purposes of this chapter, each decedent shall be presumed to have died a resident of this state. The burden of proof in an estate tax proceeding shall be upon any decedent's estate claiming exemption by reason of the decedent's alleged nonresidency." Interpreted as a non-shifting burden of proof, it was irrelevant that the decedent's estate established that the decedent had become a non-domiciliary of Connecticut prior to death and that generally under Connecticut law, a person's domicile once established cannot change until a new domicile is established.

In addition to this statutory presumption of residency, the burden upon the decedent's estate is further heightened by the required standard of proof. Based on the Connecticut Supreme Court's decision in *Leonard v. Commissioner*,[32] a taxpayer challenging a deficiency assessment must present clear and convincing evidence that the assessment is incorrect.[33] Clear and convincing proof is a "demanding standard denoting a degree of belief that lies between the belief that is required to find the truth or existence of the fact in issue in an ordinary civil action and the belief that is required to find guilt in a criminal prosecution... The burden is sustained if evidence induces in the mind of the trier a reasonable belief that the facts asserted are highly probably true, that the probability that they are true or exist is substantially greater than the probability that they are false or do not exist."[34]

The burden of proof for estate tax purposes has significant implications. Every decedent in the world, even those who are no longer Connecticut residents for income tax purposes and those who never set foot in Connecticut, are presumed to be a resident of Connecticut for estate tax purposes and consequently, have a Connecticut estate tax return filing obligation, with the absolute burden on the executor of each estate to establish that the decedent was not, in fact, domiciled in Connecticut by clear and convincing evidence.[35] Moreover, if the decedent was a beneficiary of a QTIP trust and the executor is unable to prove that the decedent was not domiciled in Connecticut by clear and convincing evidence, then the assets remaining in the QTIP trust will be included in the decedent's gross estate for Connecticut estate tax purposes, even if the predeceased spouse was not a domiciliary of Connecticut. This is because the "gross estate" for Connecticut estate tax purposes "means the gross estate, for federal estate tax purposes"[36] which, in the case of a surviving spouse for whom a QTIP trust was established, includes the assets of the QTIP trust.[37]

Another implication of presumption of residency and the burden of proof in Connecticut estate tax residency determinations is the increased potential for dual taxation. Since the determination of an individual's domicile is a question of fact and since the laws and precedent among the states may differ, two or more states may conclude that a decedent is a domiciliary of their state.[38] The risk is an especially large risk for estate tax purposes because Connecticut, unlike the common law or the laws of neighboring states which place the burden on the party claiming a change of domicile, presumes every person dies a resident of Connecticut. The United States Supreme Court has found that it is not unconstitutional for two or more states to conclude that an individual is a domiciliary for state tax purposes.[39]

Unanticipated or Accelerated Connecticut Income Taxation for Ex-Residents of Connecticut

An individual who is no longer a Connecticut resident for income tax purposes may be surprised to incur unanticipated or accelerated Connecticut income tax liabilities in three situations.

The first situation involves the acceleration of Connecticut income tax on installment payments. It is common for an individual who built a small business in Connecticut during the individual's career to sell the business via an installment sale upon retirement. A subsequent change of residency from Connecticut to another state would require the individual to report as Connecticut source income, in the year of the residency change, any amounts that are being reported under the installment sale method for federal income tax purposes.[40] In lieu of accelerating the future installment payments, the individual can post a bond or provide the Connecticut Department of Revenue Services ("CT DRS") with other security for the payment of the taxes that would otherwise be due.[41] The failure to post a bond, whether due to inability or lack of awareness, will accelerate the payment of state income taxes on income not yet received (and which may never be received).

The second situation is the risk of an income tax assessment after the expiration of the statutory refund period when an individual does not file a Form CT-8822 with the CT DRS for not only the initial move out of Connecticut, but also subsequent moves. The general refund period in Connecticut to file a claim for a refund

is limited to three years after the due date of the overpaid taxes (e.g., for an income tax return, the general refund period is three years from the original due date, or if an extension is filed, the earlier of the actual filing date or the extended due date).[42] Importantly, if taxes are paid late, the refund period is still three years after the due date, not the actual payment (or levy) date. In addition, the period during which a taxpayer may file a refund claim for closed audits, examinations, investigations or reexaminations is six months after the examination results became final. [43] These dates are particularly important because the Connecticut refund statute only considers the filing date. In contrast, the federal refund statute and those of all neighboring states, like Massachusetts,[44] New York,[45] and Rhode Island,[46] examine both the filing and payment dates.

The CT DRS is only required to mail a notice of deficiency to the address most recently reported by the taxpayer, either on a Form CT-8822 or the last filed tax return.[47] Actual receipt of notice by the taxpayeris irrelevant. When a taxpayer moves from Connecticut, the CT DRS may send the taxpayer notices inquiring into the failure to file a tax return and if the taxpayer never receives or responds to the notices, the CT DRS will then file a substitute return.[48] Once this assessment becomes final and the appeal period has lapsed, the CT DRS will levy the taxpayer's accounts. This is often the first time the taxpayer learns of the assessment, yet it is often after the refund period expired because, unlike all neighboring states and at the federal level, Connecticut considers only the return's due date and not also the payment (or levy) date.

The third situation in which an individual may trigger unanticipated Connecticut income tax after changing his or her residency from Connecticut relates to the exercise of non-qualified employee stock options. When an individual receives non-qualified employee stock options the receipt of the options is not generally included in the employee's federal adjusted gross income nor is the value of the stock at the time of vesting.[49] When the option is exercised the employee has ordinary income equal to the difference between the fair market value of the stock and the option price.[50] A taxpayer's federal adjusted gross income is the taxpayer's Connecticut adjusted gross income.[51] However, if the individual receives non-qualified options for services rendered in Connecticut and subsequently becomes domiciled in another state, the amount subject to Connecticut income tax is not the difference between the exercise price and fair market value at the time of the domicile change, but rather, all appreciation, even appreciation from periods subsequent to the change of domicile.[52]

Attorney's Fee Awards

The Internal Revenue Code[53] and the laws of neighboring states, like New York[54] and Rhode Island,[55] seek to ensure that all taxpayers can have access to judicial review by providing that a taxpayer who prevails in a suit challenging a tax deficiency can be awarded reasonable attorney's fees, whereas the taxing authority is not awarded attorney's fees if it prevails. In contrast, in Connecticut "if [a tax] … appeal has been taken without probable cause, the court may charge double or triple costs, as the case demands, and

Image credit: Thanasis/Getty Images

upon all such appeals which may be denied, costs may be taxed against the appellant at the discretion of the court but no costs shall be taxed against the state.[56]

The ease with which taxpayers can relocate outside of Connecticut belies the challenges of changing Connecticut residency for tax purposes, especially estate tax purposes, and other tax surprises. ■

Beth Brunalli *is an attorney in New Canaan, Connecticut, whose practice focuses on sophisticated estate planning and trust and estate administration.*

Luke Tashjian *is an attorney in Westport, Connecticut, whose practice focuses on tax collection and controversy matters, business law, and estate planning.*

NOTES

1 Conn. Gen. Stat. §§ 12-700(a); 12-701; *see also* Conn. Gen. Stat. §§ 12-711 12-712 (regarding the income taxation of non-residents on Connecticut source income).

2 Conn. Gen. Sat. § 12-643(3).

3 Conn. Gen. Stat. §§ 12-391(d)(1)(e); 12-391(e)(2).

4 Conn. Docket No. HHB-CV22-6070572-S, 2024 WL 4540712 (Conn. Super. Ct. Oct. 15, 2024).

5 The gift tax statute, section 12-643 of the Connecticut General Statutes, like the estate tax statute, section 12-391 of the Connecticut General Statutes, does not contain a definition of a resident. As a result, the same domicile analysis that would apply for an estate tax residency determination should also apply for gift tax residency determinations. *Compare* Conn. Gen. Stat. § 12-391(h)(1) *with* Conn. Gen. Stat. § 12-642.

6 *Foss v. Foss*, 105 Conn. 502, 136 A. 98, 99-100 (Conn. 1927); *Rice v. Rice*, 134 Conn. 440, 445-46 (1948); *Amen v. Comm'r Revenue Servs.*, 2005 Ct. Sup. 6472, 6478 (Conn. Super. Ct. Apr. 14, 2005); *Krause v. Comm'r*, 1996 WL 488916 *3 (1996)

7 *Rice v. Rice*, 134 Conn. 440, 445-46 (1948); *Amen v. Comm'r Revenue Servs.*, 2005 Ct. Sup. 6472, 6478 (Conn. Super. Ct. Apr. 14, 2005).

8 Conn. Agencies Regs 12-701(a)(1)-1(d).

9 *Estate of Anderson v. Comm'r Revenue Servs.*, Conn. Docket No. HHB-CV22-6070572-S, 2024 WL 4540712 *5 (Conn. Super. Ct. October 15, 2024). This decision is currently being appealed.

10 See footnote 8 preceding.

11 Conn. Agencies Regs. § 12-701(a)(1)-1(d)(4).

12 Conn. Agencies Regs. § 12-701(a)(1)-1(d)(5).

13 *Foss v. Foss*, 105 Conn. 502, 505 (1927).

14 *Rice v. Rice*, 134 Conn. 440, 445-446 (1948); *McDonald v. Hartford Trust Co.*, 104 Conn. 169 (1926).

15 Conn. Agencies Regs. § 12-701(a)(1)-1(d)(8).

16 *Estate of Anderson v. Comm'r Revenue Servs.*, 2024 WL 4540712, Docket No. HHB-CV-22-6070572-S (Conn. Super. Ct. Oct. 15, 2024).

17 *Id*. The decedent regularly spent about 5.5 months in Connecticut, 3.5 months in Florida and 3 months in Arizona.

18 *Id*. The court found the decedent maintained equal personal, social and property connections in Florida.

19 *Comm'r Revenue Servs. v. Estate of Krause*, 1996 WL 488916, No. CV 940536196 (Conn. Super. Ct. Jul. 25. 1996).

20 *Comm'r Revenue Servs. v. Estate of Nemeth*, 1991 WL 28073, No. 299349 (Conn. Super. Ct. Jan. 29, 1991).

21 Conn. Gen. Stat. § 12-701(a)(1)(A)(i).

22 Conn. Agencies Reg. § 12-701(a)(1)(A)(ii).

23 Conn. Gen. Stat. § 12-701(a)(1)(B).

24 Conn. Agencies Regs. § 12-701(a)(1)-1(b).

25 Conn. Agencies Regs. § 12-701(a)(1)-1(c).

26 Conn. Agencies Regs. § 12-701(a)(1)-1(e).

27 Conn. Agencies Regs. § 12-701(a)(1)-1(e).

28 *See In re Bodfish v. Gallman*, 378 NYS2d 138 (N.Y. App. Div. Jan. 22, 1976) (burden of proof for estate tax purposes is on the party alleging a change of domicile); *In re Ingle v. Tax Appeals Tribunal of Dep't of Taxation & Fin.*, 973 N.Y.S.2d 877 (N.Y. App. Div. Oct. 31, 2013) (burden of proof for income tax purposes is on the party alleging a change of domicile); Nonresident Audit Guidelines, State of New York – Department of Taxation and Finance, page 12 (June 2014) (stating that the state bears the burden of proof to show that an individual who was previously a non-domiciliary of New York changed his domicile to New York); *Horvitz v. Comm'r.*, 60 Mass. App. Ct. 1103, 2003 WL 22764593 *2 (Mass. App. Ct. 2003); *Horvitz v. Comm'r.*, 51 Mass. App. Ct 386, 393-94 (Mass. App. Ct. Apr. 24, 2001).

29 Conn. Agencies Regs. § 12-701(a)(1)-1(d)(2); *Amen v. Comm'r Revenue Servs.*, 2005 WL 1089985, No CV020515337 (Conn. Super. Ct. Apr. 14, 2005).

30 *Id*.

31 *Estate of Anderson v. Comm'r Revenue Servs.*, Conn. Docket No. HHB-CV22-6070572-S, 2024 WL 4540712 *5 (Conn. Super. Ct. Oct. 15, 2024).

32 264 Conn. 286, 302 (2003).

33 *See also Rizzuto v. Comm'r Revenue Servs.*, 2007 WL 831166 *3 (Conn. Super. Ct. Feb. 28, 2007). This clear and convincing standard is in contrast to the preponderance of the evidence standard in neighboring states such as Rhode Island and Massachusetts. *See DeBlois v. Clark*, 764 A.2d 727, 730 (R.I. 2001); *Horvitz v. Comm'r.*, 60 Mass. App. Ct 11103, 2003 WL 22764593 *2 (Mass. App. Ct. 2003).

34 *Notopoulos v. Statewide Grievance Comm'n*, 277 Conn. 218, 226, (2006) (Internal quotation marks omitted.)

35 Section 12-392(b)(3)(j) of the Connecticut General Statutes provides "A tax return shall be filed, in the case of every decedent who dies on or after January 1, 2023, and at the time of death was (i) a resident of this state, or (ii) a nonresident of this state having real property in this state or tangible personal property having an actual situs in this state." The General Instructions for Form C-3 UGE, State of Connecticut Domicile Declaration, provide, "Generally, whenever a decedent is claimed to be a nonresident of Connecticut, the fiduciary of the decedent's estate must file Form C-3 UGE, State of Connecticut Domicile Declaration." The presumption that every decedent globally died a resident of Connecticut requires that for those persons who are in-fact non-residents to not have a filing obligation they must all file a Form C-3 UGE. It appears that the presumption in 12-391(h)(2) should include the following additional italicized language, "For purposes of this chapter each decedent *who owns Connecticut situs real or tangible property* is presumed to be a Connecticut resident."

36 *Estate of Brooks v. Sullivan*, 2015 WL 2458188 *3 (Conn. Super. Ct. April 29, 2015).

37 *Id*.; I.R.C. §2044(a).

38 *See, e.g., Dorrance's Estate*, 163 A. 303 (PA 1932), *cert. denied*, 287 U.S. 660 (1932).

39 *See Cory v. White*, 457 U.S. 85 (1982) (holding with respect to state estate tax).

40 Conn. Agencies Regs. § 12-717(c)(1)-1(a).

41 *See* Form CT-12-717A and Form CT-12-717B.

42 Conn. Gen. Stat. § 12-372; Conn. Agencies Regs. § 12-8732(a)-1(a).

43 Conn. Gen. Stat. § 12-39W.

44 Mass. Gen. Laws. Ch. 62c, § 36.

45 N.Y. Tax Law § 687(a).

46 R.I. Gen. Laws § 44-30-87.

47 Conn. Gen. Stat. § 12-728(b); Conn. Agencies Regs. § 12-728(b)-1.

48 Conn. Gen. Stat. § 12-735(b); Conn. Agencies Regs. 12-735(b)-1(a)(1).

49 I.R.C. § 83(e)(3).

50 Treas. Reg. § 1.83-7(a); *Comm'r v. Lo Bue*, 351 US 243, 249 (1956).

51 Conn. Gen. Stat. § 12-701(19).

52 *Allen v. Comm'r*, 324 Conn. 292, 313 (2016).

53 26 U.S.C. § 7430.

54 N.Y. Tax Law § 3030.

55 West's General Laws of Rhode Island Annotated § 42-92-1.

56 Conn. Gen. Stat. § 12-730.