You Own A Home In Florida, But Should You Make Your Home In Florida? Comparing Florida Domicile to Michigan Domicile

By: Allison B. Christensen, Esq.

I. INTRODUCTION

A little over a year ago, I told my family that my husband and I were going to move from Michigan to Florida. My mom's first question was: "if you move to Florida now, where are you going to move when you retire?" A valid question! Little did I realize at the time, however, that Florida had much more to offer than warm weather, sandy beaches and early-bird specials. The tax implications we face as Florida residents, versus those we experienced as Michigan residents, are benefits we had not contemplated when we decided to make the move. As it turns out, there are many differences between the Florida tax code and the Michigan tax code, and there are many benefits to falling under Florida's code. While my heart will always be a Michigan resident, I am very thankful to claim Florida residency for my pocketbook's sake.

This article is aimed at providing an overview of the various taxes and tax rates of both Florida and Michigan. While there are many tax advantages provided to those domiciled in Florida, a comprehensive estate plan suited for your individual needs is required to receive the full benefit of these advantages. It is crucial that you plan ahead and address these issues, especially if you are considering a change to your domicile.

When considering a change in domicile, it is important to determine whether your current estate plan will remain valid and, whether such a change will result in your estate plan working differently than you intended. Because each situation is unique, it is impossible to provide a one-size-fits-all answer to these concerns. This reality further underscores your need to meet with an estate planning attorney and a comprehensive financial planner to ensure that your legacy lives on the way you intend.

II. TAXES: FLORIDA V. MICHIGAN

In order to determine whether it would be to your advantage to become (or remain) a Florida or Michigan resident, it is important to delve into details of the several types of taxes that may affect you. Arguably, the most important and applicable taxes are those I explain below. Again, because both the Florida and Michigan tax codes are constantly in flux, this discussion is for informational purposes only.

Income Taxes

Florida:

Perhaps the most widely recognized benefit of being a Florida resident is the fact that Florida has no state income tax.[1] What this means is that the State of Florida, unlike most other states, collects no tax on your income.

---

1 Tax Foundation, available at: http://taxfoundation.org/state-tax-climate/florida.

Michigan:

Michigan, on the other hand, does impose an income tax on its residents. The Michigan Income Tax Act was amended during 2011 and 2012. The income tax rate for 2012 equated to an annualized flat rate of 4.33%.[2] The tax rate for 2013 and each tax year thereafter, unless or until the Tax Act is amended, is 4.25%.[3] Several exemptions previously offered to Michigan residents were eliminated by the recent amendments, including exemptions for seniors and children 18 and under. Additionally, credits previously given for contributions to homeless shelters, food banks and community foundations are no longer available, nor are credits for contributions to medical savings accounts, automobile donations, renewable energy surcharges or college tuition and fees.[4]

Real Estate Taxes

Florida:

Florida's state government does not assess taxes on real property. However, local governments – counties and municipalities – do tax real estate located within their borders. In 2012, the taxable value of taxed property in Florida was $1.3 Trillion. Of that, Florida local governments actually assessed $24.1 Billion in taxes. This means that Floridians paid, on average, 1.84% property tax. Naturally, the tax rates varied depending upon where the property was located. Collier County, for example, taxed its property owners at approximately 1.29%, while Lee County taxed its residents' property at about 2.05%. On the East Coast, Miami-Dade County's property owners were taxed at 2.08%.

For Florida residents, there are several exemptions available to property owners, which decrease the taxable value of their property, and thus, the amount of taxes levied.[5] Every person who owns and resides on real property in Florida, and makes such property his/her permanent residence (i.e. the owner is a Florida resident), is eligible for a $50,000 homestead exemption.[6] Effectively, this decreases the taxable value of your home by $25,000, meaning you do not owe any tax on the first $25,000 of your property's value. The second $25,000 applies only to the assessed value of your property between $50,000 and $75,000, and only with regard to non-school taxes.

Florida offers its residents several other exemptions on real estate taxes. Widows and widowers who have not remarried are entitled to a $500 tax exemption.[7] Those over the age of 65 are also entitled to an exemption of up to $50,000, if their total household income is $20,000 or less.[8] Permanently and totally disabled veterans[9] and their spouses, as well as

---

2 New Developments for Tax Year 2012, available at: http://www.michigan.gov/taxes/0,1607,7-238-43513_44135-267216--,00.html.

3 Income Tax Changes for Individuals and Trusts Effective Tax Year 2012 (For Returns Filed 2013), available at: http://www.michigan.gov/documents/taxes/Tax_Change_Summaries_-_Individual_Income_Tax_359807_7.pdf at p. 1; *see also* Tax Foundation at http://taxfoundation.org/state-tax-climate/michigan.

4 *See* New Developments for Tax Year 2012, n.2.

5 The taxable value of property is determined by subtracting the assessed value (which takes into account exemptions) from the market value. *See* Florida Department of Revenue, available at: http://dor.myflorida.com/dor/property/taxpayers/.

6 Fla. Stat. § 196.031.

7 Fla. Stat. § 196.202.

8 Fla. Stat. § 196.075.

families of certain “first responders” killed in the line of duty, are completely exempt from property taxation,[10] as are those confined to wheelchairs, and the legally blind.[11] Florida residents are also eligible for tax exemptions when they construct living quarters (so-called “mother-in-law quarters”) on their property for their parents or grandparents, who are at least 62 years old.[12] Florida also recognizes the growth and importance of “going green.” Where the installation of a renewable energy source device increases the value of your property, that increase may not be assessed in determining the taxable value of the property.[13]

Perhaps the most significant financial benefit provided to homesteaded residents is the "Save Our Homes" (SOH) Amendment to the Florida Constitution, which was approved by voters in 1992.[14] The SOH Amendment is a “cap” on the annual increase in the assessed value of a homestead residence. The increases are limited to the lower of 3%, or the percent change in the Consumer Price Index. This results in homeowners’ avoidance of significant increases in their property taxes. This is especially important during times in which property values rise significantly, as we saw during the real estate boom of 2004-2007. Of course, when property ownership changes, this benefit is lost and the new owner is assessed at the true then-current taxable value of the property.

In order to apply and qualify for the homestead and other property tax exemptions, you must be a Florida resident. To establish this, several factors are considered, including but not limited to your child’s school registration, your place of employment, voter registration, issuance of a Florida driver’s license, and addresses listed on tax returns and bank accounts.[15]

Michigan:

Unlike Florida, the State of Michigan does assess taxes on real property. Pursuant to Proposal A,[16] adopted by Michigan voters on March 15, 1994, Michigan uses the “taxable value” of the property to calculate property taxes.[17] For the year 2012, the taxable value[18] of all real and personal property in Michigan was $315.7 Billion.[19] Based on this value, the tax levy was $12.7 Billion.[20] This means that Michigan property tax payers paid property tax at an average rate of 4.04%.[21]

---

9 Fla. Stat. § 196.082 also provides discounts for other disabled veterans.

10 Fla. Stat. § 196.081.

11 Fla. Stat. § 196.101.

12 Fla. Stat. § 193.703.

13 Fla. Stat. § 193.624.

14 Fla. Const. Art. VII, § 4.

15 Fla. Stat. §§ 196.015, 222.17.

16 Proposal A amended Article IX, Section 3 of the Michigan Constitution.

17 Prior to Proposal A, property was valued at half of its market value in order to determine real estate taxes. This was called the “State Equalized Value.” *See* MI Const. Art. IX, § 3.

18 The State Equalized Value was higher, $ 349,306,360,220. The assessed value was $349,320,104,409. *See* 2012 Ad Valorem Property Tax Report, available at: http://www.michigan.gov/documents/treasury/625AdValTaxLevyBook2012_417252_7.pdf, p. ii.

Not all $12.7 Billion was actually imposed by the State of Michigan itself, however. In fact, of the $12.7 Billion in taxes levied on Michiganders in 2012, only $1.8 Billion was attributable to state taxation.[22] Michigan counties, townships, cities and villages also assess property taxes. Of course, the tax rates vary from county to county, township to township and so on. For example, in 2012, Ingham County had the highest average tax rate, 5.42%, while Lapeer County had the lowest, 2.91%. Oakland and Wayne Counties' tax rates were 4.26% and 5.34%, respectively.[23]

Michigan, like Florida, also has a homestead property tax credit. However, unlike Florida's generous homestead credit, Michigan's does not apply to everyone. In order to qualify for a homestead tax credit in Michigan,[24] you must maintain your homestead there, and you must have been a resident of Michigan for at least six months during the year.[25] Additionally, the taxable value of your home must be $135,000 or less, and your total household resources[26] must be $50,000 or less.[27]

Michigan's homestead credit does not apply to rented homesteads.[28] In addition, Michigan recently announced that the homestead credit would be applied in different percentages, depending upon your total household resources.[29] Michigan also allows for a Principal Residence Exemption, which exempts a principal residence from local school district taxes for school operating purposes, up to 18 mills.[30] Unfortunately, and unlike Florida, there are very few other exemptions available to Michigan property owners and, most of those relate only to commercial property.[31]

---

19 *Id.*

20 *Id.*

21 *Id.*

22 *Id.*

23 *Id.* pp. 1-2.

24 To qualify, you must either own the home or be under contract to pay rent and occupy the home on which the property taxes are levied. *See* Homestead Property Tax Credit Information, available at: www.michigan.gov/taxes.

25 *Id.*

26 "Total household resources," in general, are the total income, both taxable and nontaxable, of both spouses or of a single person maintaining a household. *See* General Information – Homestead Property Tax Credit to Form MI-1040CR, available at: http://www.michigan.gov/documents/taxes/MI-1040CR_Instructions_406976_7.pdf.

27 *See* Homestead Property Tax Credit Information, n.24.

28 *See* Income Tax Changes for Individuals and Trusts Effective Tax Year 2012 (For Returns Filed in 2013), n.3.

29 *Id.*

30 MCL § 211.7cc.

31 *See, e.g.,* MCL §§ 324.5901, *et. seq.* (tax exemption for facilities which control or dispose of air pollution); 207.841, *et. seq.* (tax exemption for the rehabilitation of commercial property for use as a commercial business or multi-family residential facility); 207.551, *et. seq.* (tax exemption to manufacturers for renovation and expansion of aging facilities, building new facilities and establishing high-tech facilities); and 125.2781, *et. seq.* (tax exemption for rehabilitated commercial or commercial housing properties).

Real Estate Conveyance Taxes

Florida:

If you have bought property in Florida, you are likely familiar with documentary stamps, or "doc stamps." Each county in Florida requires that these doc stamps be attached to any deed purporting to transfer an interest in real estate. Otherwise, the document will not be recorded. With the exception of Miami-Dade County, this tax is 70 cents per $100 of the purchase price of the subject property.[32] Miami-Dade County's tax rate is 60 cents per $100 if the home is a single-family dwelling.[33] If the property is anything other than a single-family dwelling, the tax is 60 cents per $100, plus 45 cents surtax per $100.[34] Additional doc stamps must be paid when the property is mortgaged. Those stamps are 35 cents per $100 of the face value of the mortgage.[35]

Michigan:

Michigan also imposes a real estate transfer tax on contracts for the sale of real estate and deeds or other instruments conveying an interest in real property.[36] The tax rates depend upon the population of the county in which the property is located and ranges from 55 to 75 cents per $500 of the property's value.[37] Like in Florida, Michigan doc stamps must be affixed to every instrument subject to the tax.[38] If real estate is mortgaged, doc stamps are also required based on the face value of the mortgage.[39]

Sales and Use Taxes

Florida:

Florida, like most states, derives a good portion of its revenue from sales tax. Florida's sales tax rate is currently 6%.[40] This sales tax is assessed on all sales of tangible personal property at retail.[41] There are some exceptions to the tax, such

---

32 Fla. Stat. § 201.02.

33 *See* Documentary Stamp Tax on Deeds and Other Documents that Transfer Interest in Real Property, available at: http://dor.myflorida.com/dor/tips/pdf/tip08b04-01.pdf.

34 *Id.*

35 Fla. Stat. § 201.08.

36 MCL § 207.502.

37 Counties with a population of fewer than 2 million people tax at a rate of 55 cents per $500 of value. Counties with a population over 2 million may determine their tax rate, which may not exceed 75 cents per $500 of value. MCL § 207.504.

38 MCL § 207.507.

39 MCL § 207.510.

40 Fla. Stat. § 212.05.

41 *Id.*

as for groceries and medication.[42] Florida also assesses a "use tax," on the consumption of taxable goods or services, at a rate of 6%.[43] In Florida, unlike many states, county governments may also charge a sales "surtax," in addition to the state's tax.[44] Currently, the rates vary from .5% to 1.5%. For example, Orange County imposes a sales surtax of .5%, Miami-Dade charges 1%, while neither Collier nor Lee Counties currently assess a sales surtax.[45]

Michigan:

Michigan also imposes a sales tax on sales of tangible personal property, at a rate of 6%.[46] Michigan has no city, local or county sales tax. Businesses which sell labor or other services, such as hotel rooms, electricity, telecommunication service and internet access, are also subject to a use tax of 6%.[47]

Estate and Inheritance Taxes

The American Taxpayer Relief Act ("ATRA") was passed by Congress on January 1, 2013. The ATRA provides for a maximum federal estate tax of 40% with an annually inflation-adjusted $5 Million exclusion for decedents dying after December 31, 2012.[48] Adjusted for inflation, the current exclusion amount is $5.25 Million for a single person or $10.5 Million for a married couple.[49] This means that if your estate is valued at less than the exclusion, there is no estate tax due to the federal government at your death. However, if your estate is valued at more than the exclusion, each dollar above the exclusion amount is taxed at 40%. Clearly, this can be a very significant tax to your estate. There are several sophisticated estate planning techniques available to minimize the effect of estate taxes; for example, advanced planning to reduce and transfer value, charitable planning, and advanced life insurance planning. It is very important to seek experienced and competent counsel to assist you in this regard.

While it is obvious that the federal government taxes certain estates, it is less obvious that states also do so themselves. Earlier this year, Forbes.com published an article titled *Where Not To Die in 2013*.[50] According to this article, some states impose an estate tax, some impose an inheritance tax, and some impose both. Luckily for both Florida[51] and Michigan[52]

---

42 Florida Tax Guide, available at: http://www.stateofflorida.com/Portal/DesktopDefault.aspx?tabid=29.

43 Florida Tax and Interest Rates, available at: http://dor.myflorida.com/dor/taxes/tax_interest_rates.html.

44 Fla. Stat. § 212.055.

45 2013 Discretionary Sales Surtax Information, available at: http://dor.myflorida.com/dor/forms/2013/dr15dss.pdf.

46 MCL § 205.52.

47 MCL § 205.93.

48 American Taxpayer Relief Act of 2012, available at: http://tax.cchgroup.com/downloads/files/pdfs/legislation/atpr.pdf.

49 What's New – Estate and Gift Tax, available at: http://www.irs.gov/Businesses/Small-Businesses-&-Self-Employed/What's-New---Estate-and-Gift-Tax; *see also* 26 U.S.C. § 2001(c).

50 Available at: http://www.forbes.com/sites/ashleaebeling/2013/01/28/where-not-to-die-in-2013/.

51 *See* Florida Tax Guide, n.42.

residents, neither state imposes an estate or inheritance tax. Both the Florida and Michigan tax systems are referred to as "pick-up" systems because the states "pick up" all or a portion of the credit for state death taxes allowed under federal estate tax returns. Because there is no longer a federal credit for state estate taxes, there is no longer a basis for Florida or Michigan estate taxes.

Generation-Skipping Transfer Taxes

It is not uncommon for an estate plan to include a gift to ones grandchildren. However, without proper planning, an estate left to ones grandchildren with a value over a certain limit, could be subject to a generation-skipping tax. The federal government taxes these transfers at the same rate it taxes other estates valued over $5.25 Million (or $10.5 Million for a couple), currently at a rate of 40%.[53] Importantly however, this 40% generation-skipping tax is *in addition* to the 40% estate tax. As with estate tax avoidance techniques, there are also strategies available to minimize the effect of these taxes on your estate. Please reach out to a professional who can assist you in preparing a plan that fits your individual needs.

Both Florida and Michigan technically impose a generation-skipping transfer tax.[54] However, the taxes paid on such an estate, in the aggregate, may not exceed 40%; thus, after credits are applied for payment to the federal government, the states' statutes are relatively meaningless.

Gift Taxes

While the federal government imposes a tax on gifts over a certain value, currently $14,000,[55] neither the Florida nor Michigan governments do so.[56]

Intangible Personal Property Taxes

Until relatively recently, Florida imposed a tax on intangible personal property, such as stocks, bonds and mutual funds, owned by Florida residents and businesses. This tax was legislatively repealed in 2006 and no longer applies as of January 1, 2007.[57] Similarly, Michigan's tax on intangible personal property was also repealed and is no longer effective, as of January 1, 1998.[58]

---

52 Estate Tax Forms, available at: http://www.michigan.gov/taxes/0,1607,7-238-44143-156393--,00.html.

53 *See* 26 U.S.C. §§ 2001(c), 2601, 2641.

54 Fla. Stat. § 198.021; MCL § 205.233.

55 The 2012 limit on gifts was $13,000; it was raised to $14,000 for 2013. *See* What's New – Estate and Gift Tax, n.49.

56 As of December 2012, Connecticut was the only state with a stand-alone gift tax. Nine other states have provisions taxing gifts made in contemplation of death. These "deathbed" gifts are treated as inheritance and/or estate taxes in those states. Survey of State Estate, Inheritance, and Gift Taxes, available at: http://www.house.leg.state.mn.us/hrd/pubs/estatesurv.pdf.

III. WHAT THIS MEANS FOR YOU

As outlined above, there are many tax advantages available for those who make Florida their domicile. Once your understand the differences between Florida's and Michigan's taxes and their implications on you, it is important to determine which state you should make your domicile. And, even more important, is determining if your current estate plan will remain valid or whether a change in your domicile will result in your estate plan working differently than you intended. Sometimes an estate plan can be modified rather simply; other times, a complete overhaul is necessary. To insure that your legacy continues the way you intend, it is crucial to meet with an estate planning attorney and a comprehensive financial planner.[59]

---

57 Florida's Intangible Personal Property Tax Act was repealed by Fla. HB 209, § 1 (2006).

58 Michigan's Intangibles Tax Act was repealed by 1995 PA 5, § 1.

59 As an attorney, I must caution against simply relying on this article and the facts and figures discussed. This article is meant as a guide for you to use in making your personal domicile decisions. As with anything, it is important that you seek in-person legal and financial advice, discuss your personal and unique circumstances, and ensure that you are making the best decision for you. My office would be happy to schedule a meeting to assist you in both assessing the advantages of becoming or remaining a Florida resident, and determining whether your current estate plan is appropriate for you, depending upon your state of domicile.