taxanalysts
The experts' experts.
State Tax Today

Your Feedback

JULY 22, 2013

Taxes Play Major Role in Moving Out of State

by Peter L. Faber

Summary by taxanalysts

In a letter to the editor, Peter L. Faber, with McDermott Will & Emery, New York, disagrees with Amy Hanauer and Tim Krueger's argument that people don't move from a state because of taxes, saying that in his experience taxes often play an important role in the decision to leave a state.

Full Text Published by taxanalysts®

To the Editor:

Amy Hanauer and Tim Krueger argue that taxes play no role in taxpayer decisions to move from one state to another ("The Tax Flight Myth: People Move for Jobs and Family, Not Taxes," *State Tax Notes*, July 8, 2013, p. 97). Their conclusions are apparently based on empirical studies and computer models. They are wrong. Based on my experience as a practitioner who works with wealthy individuals and corporations every day, I can assure you that taxes often play a major role in these decisions and that in many cases, they are the sole reason for the move.

Hanauer and Krueger don't explain how they did their study. They have apparently looked at changes in the tax laws and other factors and tried to correlate them with movements of people into and out of Ohio. They purport to measure, among other things, the number of people who decided not to move to Ohio because of taxes and other factors. This is an astonishing conclusion. Did they interview everyone in the United States who did not move to Ohio that year? I don't think so. I didn't move to Ohio and they didn't interview me. The fact that two things happened at the same time does not prove that one caused the other. If A and B happen at the same time, that does not prove that A caused B. B may have caused A, C may have caused A and B, or it may have been a coincidence. I learned that in Philosophy 101 at Swarthmore College many years ago. I don't think that that has changed.

The authors claim that they have been able to show the effect of taxes "while holding other conditions constant." How did they do that? Get real, folks. There are limits on what economists' computers can do. It is impossible to do this, no matter how many computer simulations one does. Years ago, I wrote a paper for a tax policy conference about tax incentives. In preparing it, I met with two economists. During our meeting, I made the point that states that adopted tax incentives were taking a chance because they knew that adopting, say, a credit for engaging in a certain type of new business would cost the state short-term revenue in lost taxes but could not predict the amount of future economic development (and tax revenue), if any, that would result. The economists assured me that I was wrong. One said, "We can calculate to the nickel" the long-term economic results of enacting a tax credit. If only that were so! Real life is much more complicated. Hanauer's and Krueger's computers may be very sophisticated, but it is a mistake to rely too heavily on them. The conclusions in the article don't match my experiences in the trenches.

Moving from one state to another often involves many considerations. Jobs, weather, educational opportunities, the location of relatives, and other factors often play a major role in the decision. Years ago, I had been practicing in upstate New York and had received offers from law firms in New York City and Dallas. The proposed incomes were about the same, but the after-tax income in Dallas would have been much higher because of lower taxes. We ignored the tax difference and moved to New York because of New York's incomparable cultural opportunities. That was a personal decision. Others, faced with the same facts, might have based the choice in part on the tax differential.

My experience, and that of my SALT colleagues, is that taxes often play an important and decisive role in decisions to move from one state to another. Moreover, that is particularly the case for very wealthy individuals whose loss can be significant for a state. I am currently working with three wealthy individuals who have come to my firm for advice on how they can change their domicile from New York state to a low-tax state. When they do so, New York will lose between $70 million and $225 million in estate taxes (the variance will depend on which spouse survives the other). New York will also lose income taxes on their very substantial incomes. I assume that people in Ohio and other high-tax states are going through the same analysis. The issue with my clients is not whether to move, it is how to move so as to establish the change in legal domicile. We are going through the usual list of factors that the courts have considered in determining domicile (driver's license, club memberships, religious affiliations, civic activities, etc.). These people will move, and their moves will cost New York millions of dollars in taxes.

Changing domicile is not hard to do for wealthy people. They typically already have houses in Florida, Arizona, or the Virgin Islands. They spend significant amounts of time there already and have many contacts there. It does not take much to tip the balance so that their contacts with the new location outweigh their contacts with their old state. They don't have to abandon their old state entirely. The three people I am working with are likely to move within a year. Many others are going through the same process. The economists can play all the number games they want to with their computers, their calculus, and their fancy equations, but they are still living in their ivory towers. The reality that my colleagues and I deal with every day is very different.

Peter L. Faber
McDermott Will & Emery New York
July 10, 2013

Tax Analysts Information

Jurisdictions: United States; Ohio; New York
Subject Areas: Individual income taxation
Tax policy issues
Magazine Citation: State Tax Notes, July 22, 2013, p. 243; 69 State Tax Notes 243 (July 22, 2013)
Author: Faber, Peter L.
Affiliated Institution: McDermott Will & Emery LLP
Cross Reference: "The Tax Flight Myth: People Move for Jobs and Family, Not Taxes," *State Tax Notes*, July 8, 2013, p. 97.
Tax Analysts Document Number: Doc 2013-16866
Tax Analysts Electronic Citation: 2013 STT 140-8