Rich clients fleeing high-tax states? Saying goodbye isn't so easy

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This tax season, some high-net-worth clients may experience an expensive jolt.

The Republican tax overhaul signed by President Trump more than a year ago provides plenty of perks for the rich. But not all well-off folks are treated alike under the new law. A controversial provision that helps pay for huge corporate tax cuts punishes residents of states with higher income taxes — most of which, but not all, lean Democratic.

By setting a $10,000 cap on how much Americans can deduct in state and local taxes, or SALT for short, Washington created a pricey problem for the privileged in some parts of the country. Now that the first tax season under the overhaul is here, that reality is hitting home — and the thought of moving to a low-tax state may suddenly look more attractive for wealthy clients.

But even before the law, there were rich people in blue states trying this strategy. Some actually moved, while some just pretended to. That's where state tax auditors come in.

Officials in places such as California and New York don't make it easy for the rich to say goodbye, with investigators who dig deep, forcing residents to prove they really have cut ties in favor of cheaper pastures.

"You have to abandon the old and establish the new," said Karen Tenenbaum, a New York lawyer who specializes in residency disputes. "The more ties you cut, the better — auditors like to see a moving van and an itemized list of what was moved."

That sentence was echoed by James Gazzale, a spokesman for New York's Department of Taxation and Finance, albeit more formally. "Ensuring taxpayers pay their fair share is a top priority; therefore, our nonresident audit program continues to be very active," he said.

Here are a few of the more colorful examples of litigation between wealthy residents who claimed to have moved and jilted states that didn't quite believe them.

THE TEDDY BEAR TEST

Gregory Blatt was a rising star at InterActiveCorp when in 2009 billionaire Chairman Barry Diller asked him to take over as chief executive of Dallas-based subsidiary Match.com.

At first, Blatt was reluctant to move. Just 40 years old, he was single, loved to spend summers in the Hamptons and had just remodeled his $2.4 million West Village apartment, according to the New York Division of Tax Appeals' ruling on his case. At first, he negotiated to work out of IAC's New York headquarters most of the time, traveling back and forth to Dallas when necessary. After a few months as Match's CEO, however, Blatt testified that he had actually fallen in love with Dallas.

He joined a gym there, rented an apartment in one of the city's nicest buildings, made friends and dated. When he filed taxes as a Texas resident in 2009 and 2010, however, New York started asking questions. Tax authorities could point to the fact that, just two years after moving to Dallas, Blatt had actually moved back to New York to take over as CEO of IAC itself when Diller stepped down.

Texas, unlike New York, does not levy an income tax. Based on an audit, New York notified Blatt in 2013 that he owed the state $430,065, plus interest and penalties.

The judge noted an important point in Blatt's favor. There's a curious gauge of New York residency tied to the location of items "near and dear" to the taxpayer — often called the "Teddy Bear Test." Where you leave your teddy bear is home, basically.

In this case, the bear was a dog.

Blatt's decision to move his large, elderly dog to Dallas was a critical factor, the judge said. In an email submitted to the court, Blatt wrote a friend at the time: "Dog is the final step that I haven't been able to come to grips with until now. So Big D is my new home."

The judge ruled that Blatt's move officially took effect in November 2009, when his dog arrived. She canceled his tax bill.

THE CASE OF THE KANSAS PIZZA EMPIRE

Gene Bicknell spent decades building a sprawling business from his headquarters in tiny Pittsburg, Kansas, a town of 20,000 people about 120 miles south of Kansas City. He served as mayor and even ran unsuccessfully for governor as a Republican — twice. Though he owned a T-shirt maker, a marketing firm and a plastics company, the crown jewel of Bicknell's enterprises was National Pizza Co., the largest chain of Pizza Hut franchises in America.

In 2006, when he sold the group of 790 locations for an undisclosed sum to Merrill Lynch, the Kansas Department of Revenue wanted its cut. At the time, Bicknell said he'd already moved to Florida — which is famously free of state income tax. Kansas wasn't buying it, however, and in 2010 sent him a bill for $42.5 million. Over the course of a six-day trial in March 2013, Bicknell sought to prove he had every intention of moving to Florida. He said he obtained a driver's license, voted there and even joined a country club. His family spent winter holidays at his 5,870-square-foot home in Englewood, Florida, which he bought back in 1990. He said he intended to retire there.

The problem, the Kansas Court of Tax Appeals found, was that Bicknell couldn't prove that he'd actually cut ties with Kansas, or when his move to Florida actually occurred.

Around the time of the sale, the court said Bicknell was spending less time in Kansas, having co-written, produced and starred in a patriotic musical called "Celebrate America," inspired by the Sept. 11 attacks. In 2005 and 2006, the show had a run in Branson, Missouri — two hours from Pittsburg. But more time in Missouri didn't bolster Bicknell's argument that he really lived in Florida. Meanwhile, his businesses, staff, doctors, children, church and much of his philanthropy — including the Gene Bicknell Celebrity Charity Golf Tournament — were all back in Kansas, according to the court. His wife also remained a Kansas resident, working as an attorney there.

The court noted that the Bicknells even kept a cat, Checkers, at their 5,200-square-foot Pittsburg home.

"On balance, we find little change in Mr. Bicknell's manifest attitude toward his long-established domicile," the court held in its 2013 ruling — seven years after the sale. The court awarded Kansas $42.5 million.

But it didn't end there. Bicknell, now 86, has spent the past five years unsuccessfully fighting to overturn the ruling. In 2016, the Kansas legislature changed some procedural rules for tax appeals, breathing new life into his case. A new court decision may come as soon as this week. A spokesman for the Kansas Department of Revenue declined to comment. Bicknell's spokeswoman declined to immediately comment.

CALIFORNIA TRIES TO FORCE A TURNOVER

It wasn't looking good for National Football League star Keyshawn Johnson.

In 2017, California was demanding $2.2 million in taxes for the six years the former wide receiver said he was living out of state. His 11-year career included stints with the New York Jets, Tampa Bay Buccaneers, Dallas Cowboys and Carolina Panthers. Tax authorities cited Johnson's real estate holdings in California as evidence of his residency when he was playing for teams elsewhere, according to a California Department of Tax and Fee Administration summary of the case. He built two homes of more than 11,000 square feet and added a 2,000-square-foot gym to a third, the state said. Most of his medical, financial and legal advisers lived in California, and the Los Angeles native even opened a restaurant there, according to the state.

California also argued that an NFL player works only part of the year anyway, so Johnson could consider California his true home while playing somewhere else. They even cited his 1997 autobiography, Just Give Me the Damn Ball!: The Fast Times and Hard Knocks of an NFL

Rookie (co-written with Shelley Smith), where he mused about how he always liked to return to California to rest.

“Everybody needs a break,” Johnson wrote, “To me, that meant getting my butt to Los Angeles.”

In a 2017 hearing in Sacramento, Johnson and his lawyers argued that his California real estate holdings were either investment properties or purchases for family members, including for his ex-wife and children.

When Johnson was traded to Tampa Bay in 2000, he ended up opening a restaurant there, too, while building himself a lavish home nearby. In a transcript of the hearing, Johnson’s lawyers argued that California was underestimating the time commitment of a football player. No matter what a contract states, they said, coaches can and do demand more than just the regular season.

“Because you know what they do to you? They look at you and they frown,” Johnson told the State Board of Equalization at the hearing. “It means you better be at [training] camp or we got somebody else to replace you.”

In the end, Johnson won. The board voted that the player, now 46, wasn’t a California resident for five of the six years in question and owed just $218,857 in taxes. This month, California’s Office of Tax Appeals rejected the state’s request to rehear the case. Johnson’s attorney and state authorities declined to comment.

HOME ISN’T WHERE THE FERRARI IS

When New York challenged Thomas Campaniello’s residency, he responded by saying not only did he live in Florida, but he loved the Sunshine State. The proof? He kept his “teddy bears” there, including two classic guitars, a professional espresso machine, his doctoral degree certificate, a 1988 Ferrari and a catamaran that he sailed on Sundays.

When Campaniello, 88, earned more than $5 million in profits on the sale of a Florida office building in 2007, New York said he owed taxes up north of $488,781. Tax auditors pointed out that, while Campaniello might enjoy Florida, the rest of his life seemed to be in the Big Apple, according to the ruling of the New York Division of Tax Appeals. He sold high-end furniture in showrooms located in Florida, but his company's headquarters were in Manhattan and his warehouse was in Queens.

He'd typically fly into New York on Tuesday, work during the week, and then fly back to Florida on Friday, according to the ruling. His wife of 51 years, meanwhile, ran Campaniello's 57th Street showroom. Their apartment was in Riverdale, a wealthy enclave in the Bronx, where he still kept clothes and received mail. His only daughter and grandchild also lived in New York, and he saw doctors and dentists there, the court said.

Campaniello's business and family ties outweighed his obvious affinity for Florida's warm weather, an administrative law judge ruled in 2015.

"I do not find that petitioner has shown a change in his lifestyle that would support his claimed change of domicile," she wrote in her opinion. As a result, Campaniello owed the full amount that New York claimed. His lawyers didn't return a call seeking comment.

NEW YORK REALLY DOES HAVE A HEART

New York was suspicious when Stephen Patrick, the former chief financial officer of Colgate Palmolive, declared that he'd moved to Paris — leaving behind, the state calculated, a tax bill of $2.2 million.

Then New York's Division of Tax Appeals got to hear the whole story. It stretched back to a 1965 high school dance in Mamaroneck, a northern suburb of New York City, where Patrick met Clara, who was originally from Italy. According to the division's ruling on his case, they dated for two years, but then Patrick went to West Point and Clara returned home.

They tried to keep in touch, but she eventually sent word that she was to be married. According to the ruling, Patrick destroyed all her letters and mementos and, several years later, married someone else. He went on to raise four children in Connecticut while rising through the ranks at Colgate. But in 2007, the year he turned 58, Patrick had emergency surgery for a serious heart condition and, according to the court's opinion, sought to reevaluate his life. (Patrick declined to comment on the case.)

He told his wife he wanted a divorce, moved closer to work in New York, and started searching for Clara, his long-lost love. Through her 85-year-old uncle, Patrick found her living in Paris —

and married.

“We met, and we opened the door, we looked at each other, we just knew it was us again,” she testified. She divorced her husband. Patrick turned his life upside down, too. Previously a workaholic who rarely vacationed, he took long trips with Clara, learned scuba diving and climbed Mount Kilimanjaro, according to the ruling. By 2009, they were married. Patrick retired early from Colgate, missing out on a large pay package, and moved in with Clara and her teenage son in a $3.2 million Paris apartment with a view of the Eiffel Tower.

He returned to New York frequently for medical treatments, but the Division of Tax Appeals didn’t harp on that. It was clear, the administrative law judge held, that Patrick, now 69, had sufficiently changed his lifestyle to prove he had left for good.

So New York let him go.

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