FUNKHOUSER VEGOSEN LIEBMAN & DUNN LTD.

Legal Update

November 2013

FLIGHT OR JUST FRIGHT: THINGS TO CONSIDER FOR YOU AND YOUR BUSINESS BEFORE FLEEING

Part 2 of 2: Three Questions to Ask

By Vance Liebman

Given the unfunded pension costs and new income tax regulations facing Illinois taxpayers, many successful Illinois business owners and residents have considered fleeing Illinois to avoid income and/or estate taxes.

This Legal Update is the second in our two-part series discussing this issue. Last month's Legal Update presented the facts and law relevant to a person or business who may be considering such a move. This month, we discuss the three key questions a person and the three questions a business should examine before making a decision to move out of Illinois.

Before deciding to leave Illinois, in addition to costs imposed by Illinois income taxes, individuals and businesses should thoroughly examine all costs and considerations.

Three Items to Consider for Personal Decisions

1. **Retirement**: Are you retired or retiring soon? While states like Florida and Nevada may seem desirable because they have no individual income tax, Illinois allows you to subtract most retirement income from your taxable income. If you receive distributions from an IRA or have a qualified employee benefit plan, such as a 401(k) plan, you may not have to pay Illinois income tax on that retirement income.
2. **Property**: Do you own a home in Illinois and, if so, do you claim a homestead exemption for that home? If you move, will you keep that Illinois home? Illinois offers homestead exemptions for residential property occupied as your principal dwelling place for real estate tax purposes. Illinois homeowners regularly claim this exemption, which is automatically renewed each year. Under the new regulations, you should withdraw your homestead exemption to avoid remaining an Illinois resident. If you move, but fail to cancel this exemption, you will be presumed to be an Illinois resident for income tax purposes. If presumed to be a resident, you will need to file an Illinois tax return as a non-resident along with a signed statement detailing why you believe you were a non-resident and any evidence showing that you were a non-resident. If Illinois does not accept your non-resident claim, however, Illinois will issue a notice of deficiency against you.
3. **Estate Tax**: Are you married? Illinois allows a marital deduction for Illinois estate tax purposes for assets passing to a surviving spouse. Illinois also increased its estate tax exemption to $4 million this year. Keep in mind that even if your estate is eligible for an exemption under the

current Federal Estate Tax, it may still be subject to a state estate or inheritance taxes. 19 states, and the District of Columbia, have an estate or inheritance tax. Two states—Maryland and New Jersey—impose both estate and inheritance taxes. Some states also have state-level gift taxes.

Three Items to Consider for Business Decisions

1. **Labor**: While overall labor rates may be lower in some states with no income taxes, the availability of the type of labor force your business needs will vary from state to state. Another state may have a lower concentration of jobs specific to your business' industry sector (and less availability of labor), or the state may pay higher median wages for the type of labor your business needs. You may also want to evaluate the state's labor laws and assess whether the state seems to be more employer-friendly or employee-friendly.
2. **Other Taxes**: Each state imposes numerous other taxes, many at the local level. When considering a move to a state with lower or no income taxes, make sure to review other taxes, including corporate income tax, local city or county taxes, and taxes on gasoline, sales, and real estate. Even in a state that has no income tax such as Florida, higher property taxes can become significant expenses.
3. **Insurance and Healthcare**: In addition to a comparison of various taxes, also evaluate any additional insurance and healthcare costs. For example, Florida has higher average annual premiums than Illinois for homeowners and automobile insurance. Florida also has higher healthcare spending per person, but that may reflect the age of the population.

Finally, if you do decide to leave Illinois, protect yourself from potential tax liability. If you do not file an Illinois tax return, Illinois has an indefinite time to assert a notice of deficiency. You may want to receive at least one source of Illinois income and/or file an Illinois non-resident return so that you cannot be assessed by Illinois years later.

These are just a few of the initial factors to consider when determining whether to maintain or end Illinois residence for you or your business. If you would like further advice about these or other considerations, please consult with your attorney or tax advisor.
