Taxpayers are continuing to grapple with what landmark US tax reform means to them. While many regulations implementing tax reform have been released, important questions remain, and significant guidance has yet to be finalized. Our “Considerations for 2020” series takes a deeper look at some of the complex choices in tax and wealth planning that stem from tax reform and other recent policy changes.

Exploring options on where to live and work is becoming less fantastical as remote working goes mainstream, and the exercise is bringing cost of living differences among states to the forefront for many. As the $10,000 cap on deductions of State and Local Tax (SALT) from federal income tax thus far withstands regulatory reviews, more residents or business owners in high tax states are likely to consider residency in states with no or lower income taxes in 2020.

**What’s at stake**

Tax savings. Rates for the highest statutory income bracket range from 7.65% in Wisconsin to 13.3% in California for the 2019 tax year, to name two of the top ten states by income tax. Seven states do not levy an income tax, including Florida, which has received the most number of people moving in from other states, according to a US Census Bureau analysis. Differences in property and estate taxes are among the additional factors being weighed by some.

**Now what**

Before letting the tax tail wag the dog, know that establishing residency in the eyes of state tax authorities involves more than just saying so and staying put in a new home for six months and a day. Residency rules differ among the states; in a non-residency audit, authorities apply residency tests, evaluating ‘facts and circumstances’ on an individual basis. In short, there is no standard checklist of things to do that will reliably fit every case. There are also options to lower state tax liabilities that don’t involve upping stakes.
Considerations

**What complicates residency?** Try this test: Where does a highly-mobile executive who largely works from their laptop and phone, owns several homes and travels half the year actually have their domicile? Where they register to vote? Where their minor children attend school? Where their spouse lives? Where their business is based – or that of the boss they report to? Where they regularly attend religious services? Where they own a vacation home? And do the credit card receipts and utility payments match up? This is what a non-residency audit can feel like as state tax authorities seek to establish whether the state is owed tax just on earned income generated in the state or on all income earned during the year. Be prepared to make the case before you decide to go.

**Tax rules evolve** and court cases continue to refine what makes a ‘resident individual’ for income tax purposes. The SALT provision in particular has faced several challenges; most recently in a December 2019 House vote to lift the cap on deductions, which must also pass the Senate. In any case, unless Congress acts to make the provision permanent, the SALT cap is set to expire after 2025.

**Alternatives** Trusts can be useful in managing family wealth and can be set up in states or jurisdictions which may not levy income tax on non-state residents, allowing the trust assets to grow at a faster rate (although distributions are still taxable to beneficiaries who live in a state with tax). Trusts can take many forms and can be used to accomplish a variety of planning goals. Note that tax is not often the sole consideration in an analysis on where to establish a trust; privacy and creditor protections differ by state, as well.

**How PwC can help**

PwC’s *Wealth and Tax Planning Guide* is updated annually. Find information on family and business taxes, investment and insurance planning, and options and tax-savvy alternatives for giving to charity. A thorough discussion of choices and tax implications relating to estate and gift planning is also included, as well as insights on the myriad tax issues stemming from cross border activities, including residency nuances. The Guide also covers topics relating to setting up and maintaining a family office.

**Contact**

Frank Graziano

*Personal Financial Services Leader, PwC US*

frank.graziano@pwc.com