

CHANGE YOUR DOMICILE TO FLORIDA: FLORIDA LEGISLATURE SAYS "COME ON DOWN" AND REPEALS THE INTANGIBLES TAX

By: Jeff Baskies, Esq.

Ding Dong, the wicked witch is dead. "The insidious intangibles tax is no longer with us, which is great," Governor Jeb Bush, Associated Press. On April 26, 2006 the Florida Senate voted 30-9 passing a bill to repeal the state's annual intangible personal property tax.

Previously, on March 23rd, the Florida House voted overwhelmingly (100-20) to repeal the annual intangible personal property tax. Governor Bush is expected to sign the bill into law immediately. The repeal will be effective as of January 1, 2007.

Facts:

In general, Florida residents benefit from a very tax-friendly jurisdiction:

- There is no state income tax.
- There are frequent tax holidays and refunds.
- There is no state estate tax.
- The "Save our Homesteads" law caps annual increases in property values for real property taxes at the lesser of 3% or the CPI.
- (Article VII, `4(c) of the Florida Constitution.)

Now, there is no intangible personal property tax either!

Prior to passage of this new bill that repeals the in-tangibles tax, Florida imposed a tax on residents for the value of their intangible assets (generally, stocks, bonds [excluding Florida municipal bonds], mutual funds, options, notes receivable, interests in LLCs or stock in corporations and other similar assets). (For a discussion of how the intangibles tax worked and what assets were subject to it, see the Department of Revenue's website: www.myflorida.com/dor.) However, many forms of investments were exempt from the tax including Florida municipal bonds, intangibles inside retirement accounts, life insurance or annuities, and other forms of investments. And many wealthy clients avoided the Florida intangibles tax by creating short-term irrevocable trusts that were not subject to the tax.

Now, the good news for Florida residents (and those considering a move to Florida) is that residents no longer need to worry about the intangibles tax and no longer need to bother creating and funding intangibles tax trusts.

Comment:

The repeal of the Florida Intangible Tax seems a natural step in the progression of Florida's favorable tax policy. Florida obviously wants to be considered a tax-favorable haven for its residents and wants to attract new residents. Florida uses the tax-favored status to lure both retirees and working people. For example, Governor Bush has touted the tax-favored status of Florida in his efforts to recruit new businesses to Florida.

Now, when coupled with the lack of an income tax and the lack of an estate tax, Florida looks even more favorable as a residence when compared to the places many of its residents are moving from in the north-east and the mid-west. In

states like New York, New Jersey and Massachusetts, for example, it is compelling for residents to move to Florida to avoid the compound effect of paying 5-10% + in annual income taxes and 10%+ (16% even) in state estate taxes.

Also, given the meteoric rise in many Florida property values, the move to become a Florida resident has also been pushed by the Save Our Homes cap on real property taxes. Many of our non-Florida clients have decided they need to become Florida residents just to stem their ever-growing real property tax bills.