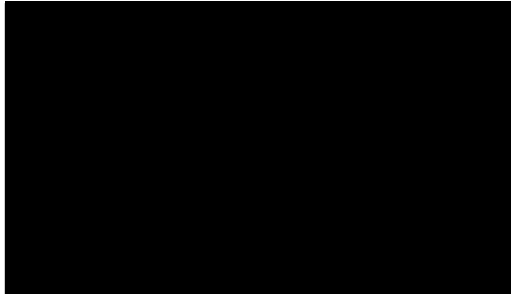




CITY OF PHILADELPHIA

REVENUE DEPARTMENT
Law/Tax Unit
Municipal Services Building
1401 JFK Boulevard
Philadelphia, PA 19102-1595

March 13, 2018



Re: Philadelphia Private Letter Ruling [REDACTED]

Dear [REDACTED]

This ruling is issued by the Tax Unit of the City of Philadelphia Law Department and the Technical Staff of the Philadelphia Department of Revenue in response to your February 21, 2018 request for a ruling. You have requested a determination that the purchase of a residential property in Philadelphia by Taxpayer will not result in Taxpayer being considered a resident and domiciliary of Philadelphia for purposes of Philadelphia's School Income Tax ("SIT"). *See* Phila. Code Section 19-1800, et. seq.

Facts

This ruling is based on the following facts as detailed in your correspondence of February 21, 2018.

- Taxpayer's primary residence is located in a suburb of Philadelphia. Taxpayer's spouse and two dependent children also reside there. Taxpayer and her family have memberships at several country clubs located outside of Philadelphia.
- Taxpayer states that she is a philanthropist who occasionally conducts volunteer activities in Philadelphia. Taxpayer further states that these activities require her presence in Philadelphia for a portion of approximately 13 to 15 days per year. Taxpayer states that she does not receive income from performance of her volunteer duties.
- Taxpayer has stated that all personal mail, including financial statements and credit card bills, are received at this residence. Additionally, the address of this residence is listed on

Taxpayer's federal, state, and local income tax returns; her driver's license; and her voter registration.

- In addition to their primary residence, Taxpayer and her spouse (collectively "Taxpayers") own additional properties located outside of Pennsylvania.
- Taxpayer states that the majority of these additional properties are used for leisure, recreation, or visiting family living outside of Pennsylvania. Taxpayer has stated that the aggregate time spent at these properties each year ranges from 46 to 69 days per year.
- One property is a rental property occupied by members of Taxpayer's family.
- Taxpayers are considering purchasing an additional property in Philadelphia. Taxpayer states she has no intention of abandoning her current domicile and that the Philadelphia property is intended to be used for leisure and recreational purposes. Taxpayer anticipates spending no more than 150 full or partial days per year in Philadelphia.

Question Presented

Would purchase and ownership of a Philadelphia property result in Taxpayer becoming a Philadelphia resident and domiciliary for purposes of Philadelphia's School Income Tax?

Short Answer

Based on the above facts, purchase and ownership of the Philadelphia property would not result in Taxpayer being deemed a resident and domiciliary of Philadelphia who is subject to Philadelphia's School Income Tax.

Discussion

Philadelphia Code Section 19-1804 authorizes the School District to tax the net income of any person who resided in Philadelphia for the applicable tax year. Specifically, "the Board is authorized to impose a tax . . . on every person who is a resident of the School District of Philadelphia on the net income from the ownership, lease, sale or other disposition of real property and tangible and intangible personal property, received or credited to said person during the corresponding tax year. . . ." Phila. Code Section 19-1804(2)(a).

The Philadelphia Department of Revenue School Income Tax Regulations state: "Any person residing in the School District of Philadelphia for a full tax year or for a period less than a full tax year, shall be liable for the tax on income received, or credited to him, including income that is reinvested to him during such year or period of residency." Phila. SIT Regs. Section 202. The SIT Regulations define a resident as "Any person domiciled in the School District of Philadelphia on or after December 1, 1967." Phila. SIT Regs. Section 101. Neither Philadelphia Code Section 19-1804 nor the Philadelphia School Income Tax Regulations define the term "domicile." However, Philadelphia Income Tax Regulations Section 101(m) defines domicile as "a place where a person has his true, fixed, permanent home and principal establishment, to

which, whenever absent therefrom, he intends to return and continues until another permanent home and principal establishment is acquired.” Further, when determining domicile for income tax purposes, factors considered by the Philadelphia Department of Revenue include, but are not limited to, the following: mailing address, place of voting, establishment of business and social contacts, and statements in license applications. *See*. Phila. Income Tax Regs. Section 206(a).

Courts have generally held an individual’s “domicile” to be the place where an individual intends to establish a permanent home and intends to return to whenever he is away. *See. Hvizdak v. Commonwealth*, 50 A.3d 788, 791 (Pa. Commw. Ct. 2012); *Southwest Regional Tax Bureau v. Kania*, 49 A.3d 529, 532-3 (Pa. Commw. Ct. 2012). Further, an individual can only have one domicile. Phila. Income Tax Regs. Section 206(a). An individual’s statement as to his intentions are not, on their own, sufficient to establish domicile. *See. Southwest Regional Tax Bureau*, 49 A.3d at 533 (citing *In re Pendergast* 673 A.2d 324, 327-28) (“Intent is the actual state of facts, not what one declares them to be.”). The individual seeking to establish a new domicile must demonstrate this intention through his or her conduct. Accordingly, the determination of an individual’s domicile requires a factual inquiry.

Factors considered in determining the domicile of an individual with multiple residences include, but are not limited to: (1) where the individual maintains her physical presence, (2) where the individual is registered to vote, (3) where the individual’s social connections and interactions are located, (4) an individual’s mailing address, and (5) address used by the individual on her tax returns and driver’s license. Phila. Income Tax Regs. Section 206(a). When determining an individual’s domicile, no one factor is controlling and all factors must be considered as a whole. *Id.*

In *Southwest Regional Tax Bureau v. Kania*, the Commonwealth Court noted that “[a] domicile once acquired is presumed to continue until it is shown to have been changed A new domicile can be acquired only by physical presence at a new residence plus intent to make that new residence the principal home.” 49 A.3d at 533.

In addition to her property located outside of Philadelphia, Taxpayer owns additional properties outside of Pennsylvania but claims the suburban property as her primary residence and domicile. It is at this residence that Taxpayer receives personal mail, bills, account statements, and other financial documents. This address appears on Taxpayer’s voter registration and driver’s license, and is the address Taxpayer uses on her federal, state, and local income tax returns. Taxpayer’s two dependent children reside with Taxpayer at the suburban residence, with the youngest attending high school near the residence. Taxpayer has indicated that if the Philadelphia residence is purchased, she intends to maintain her current primary residence and domicile.

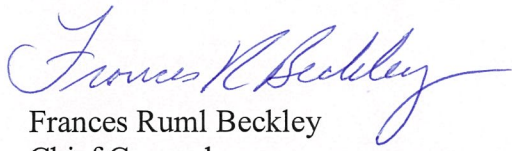
Conclusion

Based on the facts as presented by Taxpayer and Taxpayer’s assertion that these facts will continue to be true, purchase of the Philadelphia Property will not result in Taxpayer being deemed domiciled in Philadelphia for Philadelphia School Income Tax purposes. Because an individual is presumed to retain an established domicile until she expresses an intention to and

takes actions to change such domicile, the purchase of the Philadelphia property will not, on its own, result in a change in Taxpayer's domicile.

This ruling was prepared based upon the facts presented and can only be relied upon by the Taxpayer named in it and is not to be treated as a precedent in any other context. The ruling will remain in effect as long as the facts presented in this ruling remain unchanged, until a change in the law dictates a different treatment, or until the Revenue Department or the Law Department informs the Taxpayer in writing that the ruling is no longer applicable.

Sincerely,



Frances Ruml Beckley
Chief Counsel
City of Philadelphia Department of Revenue