



# **Hotel Minnesota: Residency and Relocation**

# Reasons to Stay in Minnesota

- Parks
- Schools
- Economy
- Weather
- Sports Franchises

# Reasons to Relocate

- Individual Income Tax
- Corporate Tax
- Estate Tax
- Weather
- Sports Franchises

# Residency and Domicile

## Physical Presence Test

- **Physical presence test: the 183-day rule**
  - If you are a resident of another state, you may still be taxed as a Minnesota resident under the 183-day rule.
  - The 183-day rule depends on two conditions:
    - You spend at least 183 days in Minnesota (any portion of a day counts as a full day), and
    - You or your spouse own, rent or occupy an abode—a self-contained living unit, suitable for year-round use, that is equipped with its own cooking and bathing facilities—in Minnesota.

# Residency and Domicile Intent Test

If you do not meet the physical presence test, you still may be a resident and the Department of Revenue will look at a number of other factors to determine your intentions. The factors they consider include:

- **Physical presence**
  - Where you spend the majority of your time
- **Family and community connections**
  - Location of your spouse, children, dependents, and other relationships
  - Location of memberships, clubs, and other organizations
  - Where you attend church
  - Where you or your family members attend school and whether resident or nonresident tuition was charged
  - **Note:** Donations to charities are not considered in determining residency

# Residency and Domicile Intent Test

- **Professional and business**
  - Location and status of professional licenses
  - Location of union membership
  - Location of employment (permanent or temporary)
  - Location of real and personal property
  - Business relationships
- **Housing**
  - Location of newly acquired living quarters
  - Status of former living quarters
  - Size and value of residences
  - Address change notifications

# Residency and Domicile Intent Test

- **Statements and declarations of legal residence**
  - Location of domicile for prior years
  - State that issued driver's license
  - Voting registration and history
  - Location where financial transactions occur
  - Address of military records
  - Address on legal documents
  - Statements to insurance companies
  - Where resident or nonresident hunting/fishing licenses were purchased
  - Location of jury duty

# Residency and Domicile Representative Cases

- *Larson v. Commissioner of Revenue*
  - 824 N.W.2d 829 (Minn. 2013)
- *Mauer v. Commissioner of Revenue*
  - 829 N.W.2d 59 (Minn. 2013)
- *Zavadil v. Commissioner of Revenue*
  - 2015 WL 1331322 (Minn. Tax Ct. 2015)
- *Zauhar v. Commissioner of Revenue*
  - 2020 WL 4912971 (Minn. Tax Ct. 2020)



# Residency and Domicile

## Representative Cases

*“Taxpayers in Minnesota enter the domicile swamp at their own peril.”*

- Justice G. Barry Anderson, dissenting in *Mauer v. Commissioner of Revenue*

# Summary & Questions

- Income Tax
- Corporate Tax
- Estate Tax
- Residency
  - Physical Presence Test
  - Intent Test