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Executive Compensation ■ Succession ■ Wealth Transfer Planning

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Increased mobility in today's society has changed the way we live, work, and play. Compared to previous generations, it is now quite common for work and recreational activities to cross state lines, resulting in ownership of property and formal relationships in more than one state.

When considering the terms **domicile**, **statutory residence**, and **residence**, although they may seem similar at first, it is important to understand their distinctions. Your ***domicile*** is the state where you maintain your permanent residence and intend to return to for prolonged periods. An individual, however, can have only one legal domicile at a time. A ***statutory residence*** is the place where you live and work, and therefore are subject to state income tax. If you are a statutory resident of one state, while claiming domicile in another, your state of domicile may also require you to file a tax return. Your ***residence*** is any place (or places) where you live; the term "residence" bears little or no legal significance.

Estate Planning

Where your will is **probated** is also determined by your domicile. If your domicile is unclear at your death, several states may be able to claim you as a domiciliary and tax your estate accordingly. Keep in mind that estate tax laws vary by state, and state laws may differ from Federal laws. In some states, your spouse may be taxed on a portion of his or her inheritance that, in another state, would pass to him or her free of state estate tax. Some states exempt smaller estates and certain property from the probate process. Other considerations may also apply.

In addition, your choice of domicile can affect your overall financial plan, especially regarding property ownership. Not all states define property ownership in the same way. Some allow married couples to own property and income separately. In other states known as community property states, married couples share ownership of all assets acquired *during* the marriage, but each spouse may own previously acquired property separately.

Further, your choice of domicile can affect your state income tax. Your income may be taxed in your state of domicile, the state where you earn income, or both. If you change your domicile during the tax year and both your present and former domiciles tax income, you may have to file partial-year tax returns in both states.

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Important Considerations for Workplace Monitoring

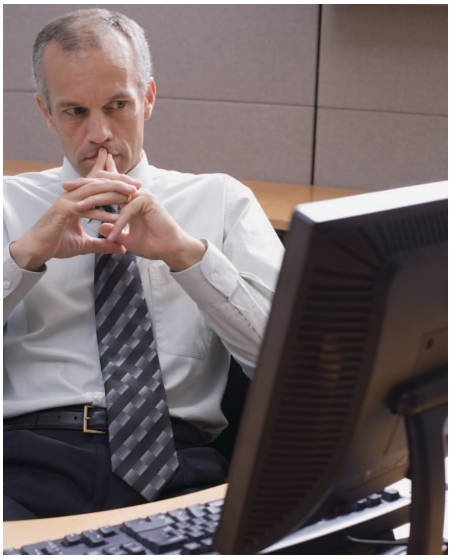
Many U.S. companies and organizations have some form of workplace surveillance system in place for security reasons. But with advances in technology, workplace monitoring has come of age and is available to small business owners for use in closely observing employee behavior, as well. While many employers may use workplace monitoring for what they believe to be legitimate purposes, such as checking employee productivity, performing business-related quality control, or tracking sources of leaks in confidential company information, specific guidelines should be created and adhered to for the proper usage of security systems, in order to abide by existing laws that help protect the privacy of employees.

Privacy Laws and Violations

Protecting your business from potential legal problems that could arise if an employee were to use a company computer for improper, or even illegal, activities online may be an important consideration for monitoring your workplace. Other business owners may have legitimate concerns about employee productivity after noticing a downward shift in the workflow. The challenge with Internet monitoring and other workplace surveillance tools is to not only protect your interests as an employer and business owner, but in so doing, to retain the trust of your employees by protecting their privacy.

Since camera security systems and Internet browsing restrictions are standards in workplace monitoring today, there are certain protocols employers should consider when setting up a surveillance system. For example, security cameras should never be installed in bathrooms or other areas in the building where employees may undress or change their clothes. Therefore, workplace surveillance content of employees should never be distributed in public.

Under the Electronic Communications Privacy Act (ECPA), enacted in 1986, there are provisions for access, use, disclosure, interception, and privacy protections of electronic,



wire, and oral communications while in transit. For instance, the ECPA does not prohibit an employer from reading an employee's electronic communications, including emails and instant messaging. However, an employee may be protected under the ECPA if an employer were to monitor a private conversation being conducted on an employee's own phone. On the other hand, the ECPA may not protect an employee from being monitored when using a company-owned phone or computer, particularly when accessing the Internet.

The Methodology

Since an employer owns the computer network and terminals, he or she has the right to use certain monitoring techniques for business-related reasons, such as to check employee productivity levels, including the following:

- **Keystroke monitoring**, which reports the number of keystrokes per hour from each employee.
- **Computer software** that allows an employer to see what is on an employee's computer screen or stored on computer hard drives.
- **Idle time tracking**, which monitors computers for time spent away from the computer.

It is important to note that some employees may be protected from workplace monitoring under certain circumstances. An employer's right to monitor employees may be limited in certain states under specific statutes. Restrictions may also apply to employees with a union contract or who work in the public sector.

As a business owner, you want to ensure the security and safety of your company, property, and workforce. Your concerns may run the gamut of guarding your company's secrets, evaluating the performance of your employees, and protecting your business from a possible lawsuit due to illegal online activity conducted on company time. While there are effective surveillance tools and techniques that can help you operate your company more efficiently, there are protocols that need to be followed with respect to workplace monitoring, and privacy laws to be aware of that protect your employees. To keep track of inappropriate employee behavior that may occur within your company, remember to establish workplace surveillance guidelines before setting up a system of security. ■

Stretching an IRA into Future Generations

Imagine that you could wave a magic wand and turn your new grandchild into a millionaire for a head start in life. Believe it or not, even a relatively modest amount tucked away using a "stretch" IRA strategy could, under certain market conditions, evolve into a rather substantial nest egg that your grandchild, or other beneficiary, may enjoy in years to come.

A Long-Term Strategy

The stretch IRA strategy is an Individual Retirement Account (IRA) in which earnings are allowed to grow tax deferred over a beneficiary's lifetime. If you have an IRA that you do not need for retirement income, you can opt to restrict your withdrawals to the minimum annual distribution required by the Internal Revenue Service (IRS) starting at age 70½. Required minimum distributions are based on your life expectancy and the amount of funds in your account.

If you decide you want to stretch your IRA into future generations, you can establish a trust that allows for the distribution of IRA assets to primary, and possibly secondary, beneficiaries. Upon your death, your beneficiary will be permitted to take distributions over time, based on his or her age and life expectancy. This not only gives the investments in the account a chance to grow and compound, but it also means that income taxes owed on the IRA can be paid over an extended period of time.

If you choose a very young beneficiary, such as a grandchild, the funds in the IRA may compound substantially over the course of a lifetime. Provided the beneficiary does not access funds in the account along the way, due to a disability or other hardship, a considerable sum could amass by the time he or she reaches retirement.

Risks Involved

Before you integrate the stretch IRA strategy into your estate plan, it is important to note that this approach does carry some risk. If IRA assets decline in value, or if inflation erodes the value of your savings, the substantial returns for your heirs may not materialize.

Should you live a very long life, it is also possible that the funds in your IRA may not grow because you must continue to take required distributions. If, for example, longevity is on your side and you live to age 95, the amount you leave to a grandchild may be less than if you had passed on a decade earlier.

Keep in mind, too, that a stretch IRA strategy works best when only the required minimum distributions are withdrawn. If your beneficiary were to withdraw additional funds to buy a car or pay the rent, the account could be quickly depleted.

Finally, it is important to consider the tax implications of including a stretch IRA strategy in your inheritable estate. Under the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (2010 Tax Relief Act), the Federal estate tax and generation-skipping transfer (GST) tax, which had been repealed in 2010, has been reinstated, with an exemption amount of $5.25 million and a top tax rate of 40% through 2013.

Despite the inherent risks, a stretch IRA strategy can be a tax-efficient means for passing on savings to future generations. While there is no guarantee that inheriting a stretch IRA can turn your grandchild into a millionaire, it could help contribute toward making his or her retirement more comfortable. ■

the importance of domicile for your estate plan

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Establishing or Changing Domicile

You can take certain steps to establish your state of domicile. In general, your domicile is not determined by the length of time you spend in a state. You may establish a domicile when you first occupy a property, or you may spend decades in a place and never call it your domicile. If you marry a person domiciled in another state, you may be able to claim your spouse's domicile as your own, even if you never visited that state.

If you have moved, your "true" domicile may hinge on the *number* and *significance* of the contacts you have in your former and present state. Here are other significant factors for you to consider:

Retention of "historical" home. If you have moved, have you sold your long-time residence in a former state?

Business relationships. In which state are your significant business contacts located?

Location of property. Where is most of your significant real and tangible personal property located?

Social connections. Where do you maintain civic, religious, or family connections?

Time spent. Where do you spend the majority of your time?

While you may feel your *intent* is clear, it is most likely that your *actions* will determine the evidence of your intentions. Consequently, simple acts such as registering to vote in a new locale, changing your automobile registrations and driver's license, resigning from organizations in your former state, and joining organizations in a new state may also be viewed as evidence of intent to change your domicile.

Because your choice of domicile can affect your overall estate planning, be sure to consult your professional, legal, and tax advisors for specific guidance on your unique circumstances. ■

What Is Your Net Worth?

Have you ever thought about what your bottom line is? Calculating your personal net worth can help you get a better sense of your overall financial picture, as well as develop money management strategies to meet your long-term goals. To figure out where you stand, simply subtract what you owe **(liabilities)** from what you have **(assets)**. Your assets include everything you own, from the cash in your checking account to the equity in your home, and can even include antiques or collectibles with cash value. Your liabilities represent the amount of debt you carry, from the unpaid balance on your credit card to your mortgage. A positive net worth means you own more than you owe, while a negative net worth means you owe more than you own. If you need to develop a strategy for improving your net worth, be sure to consult with a qualified financial professional. ■

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