



STATE OF DELAWARE
DEPARTMENT OF FINANCE
DIVISION OF REVENUE
CARVEL STATE BUILDING
820 N. FRENCH STREET
P.O. BOX 8911
WILMINGTON, DELAWARE 19899-8911

DIVISION OF REVENUE

October 22, 1996

TECHNICAL INFORMATION MEMORANDUM 96-9 (Revised)

SUBJECT: COOPERATIVE AGREEMENT ON MULTIPLE TAXATION BY
NORTHEASTERN STATES

CONTACT: John Maciejewski (302) 577-3321

Technical Information Memorandum 96-9 contained a typographical error. This Revised Memorandum replaces TIM 96-9.

Eleven northeastern states and the District of Columbia have ratified a cooperative agreement concerning the determination of an individual's domicile and/or residency and the multiple taxation of income that often results from conflicting determination by the various states.

The historic agreement was signed by officials of the 12-member North Eastern States Tax Official Association (NESTOA) at the group's annual meeting in Newport, Rhode Island.

The accord addresses the problem of the multiple taxation of individuals who are deemed to be domiciliaries of more than one state, and of individuals who are determined to be domiciliaries of one state and statutory resident of another state.

NESTOA members, recognizing both the unfairness of the current situation to individuals and the tax compliance problems it generates, have joined together to formulate a solution which benefits both the individuals and the states.

The NESTOA agreement promotes uniformity among states in terms of tax policy relating to these individuals, and was predicated on these basic goals:

- That individuals should only be deemed to be domiciliary of one state for any given period;
- That criteria used by the states in determining an individual's domicile should be as uniform as possible; and
- That uniform sourcing rules should be applied by the states to reduce or eliminate multiple state taxation of the same income.
- Under the accord, the tax administrators have agreed to incorporate the following concepts in their tax policy relating to affected individuals:
 - Apply uniform primary criteria for determining a taxpayer's domicile.
 - Implement an informal appeals process which would be available to taxpayers involved in a domicile dispute with multiple members. The Delaware contact person for the purpose of initiating such an appeal is John Maciejewski at (302) 577-3321.
 - Apply uniform rules in the sourcing of income and the calculation of credits for taxes paid to other states.
 - Establish a system of interstate sharing of data and compliance techniques in the area of domicile and statutory residencies.
 - Publish an informational pamphlet outlining the agreement and contact person in each state's tax administration agency.

In states in which tax statutes and regulations do not currently permit the adoption of such methods, the tax administrators have agreed to make every reasonable attempt to encourage the necessary legislative or regulatory changes to permit the implementation of the agreement. In

Delaware, 30 Del. C. §1111 already reaches the result agreed upon among the NESTOA states. Specifically, under §1111, residents, whether statutory or domiciliaries, are allowed credits for taxes paid other states on income derived from sources in such states. Under Delaware law, income from intangible assets typically has its source at the domicile of the owner of the asset. Thus, the Delaware statutory resident would receive a credit for taxes paid to the state of domicile on such income.

The NESTOA member states believe that this agreement addresses a longstanding problem recognized by both taxpayers and the states, and provides for an equitable solution for both.

NESTOA includes the states of Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware and Maryland and the District of Columbia.


William M. Remington
Director of Revenue

The NESTOA states have recognized the need for uniformity in determining domicile issues by its member states.

This brochure has been prepared to advise taxpayers and practitioners of areas of agreement between the states. It also provides contacts within each state for resolving problems between states.

The NESTOA states have agreed on the following factors to be considered in determining domicile.

- * **Home or Way of Life**
- * **Time**
- * **Items "Near and Dear"**
- * **Active Business Involvement**
- * **Family Connections**
[To be reviewed when first four factors are not conclusive]

These factors will be used by the states as a guide in determining domicile. In most cases a review of these factors will be sufficient to make a determination. The states have created a model questionnaire for their use during audits. Individual state's laws and regulations take precedent on any issue and audit staff will be making decisions in accordance with those laws and regulations.

In some cases the domicile issue may be pursued by more than one state for a particular taxpayer. If 2 or more states claim a domicile status and if requested by the taxpayer the North Eastern States involved will discuss the issue and attempt a resolution. However, the states are not bound to reach a resolution on the matter. The taxpayer is also not bound to accept the resolution. The taxpayer may continue with the appeal process in each of the states.

A list of the domicile issue contact person, address and telephone number for each of the North Eastern States participating in this process follows:

Connecticut _____

Joseph Thomas
Connecticut Department of Revenue
25 Sigourney Street
Hartford, Connecticut 06106
860-541-4501

Delaware _____

John J. Maciejewski
Delaware Division of Revenue
820 North French Street
Wilmington, Delaware 19801
302-577-3321

District of Columbia _____

Mark Gripenrot
D.C. Department of Finance and Revenue
441 4th Street, NW, 4th Floor
Washington, D.C. 20001
202-727-6019

Maine _____

Chris Ward
Bureau of Taxation, Income Division
State Office building
Augusta, Maine 04333
207-626-8487

Maryland _____

Charles R. Townsend
Comptroller of the Treasury
Compliance Division
301 West Preston Street, Room 203
Baltimore, Maryland 21201
410-767-1557

Massachusetts _____

Terence Bradshaw
Massachusetts Department of Revenue
215 First Street 4th Floor
Cambridge, Massachusetts 02142
617-621-5300

New Hampshire _____

Maurice P. Gilbert
Department of Revenue Administration
61 South Spring Street
P.O. Box 457
Concord, New Hampshire 03302-0457
603-271-3400

New Jersey _____

Michael Roach / John Farina
New Jersey Division of Taxation
50 Barrack Street CN 288
Trenton, New Jersey 08646
609-292-2163

**New York State and
New York City** _____

William Botsakos
NYS Department of Taxation And Finance
W.A. Harriman Campus
Albany, New York 12227
518-457-7440

Pennsylvania _____

Harry Wildasin
Pennsylvania Department of Revenue
12th Floor, Strawberry Square
Harrisburg, Pennsylvania 17128-1200
717-787-8293
or
Greg Skotnicki
11th Floor, Strawberry Square
Harrisburg, Pennsylvania 17128-1100
717-783-4553

Rhode Island _____

Michael Canole
Rhode Island Division of Taxation
One Capital Hill
Providence, Rhode Island 02908-5800
401-277-6261

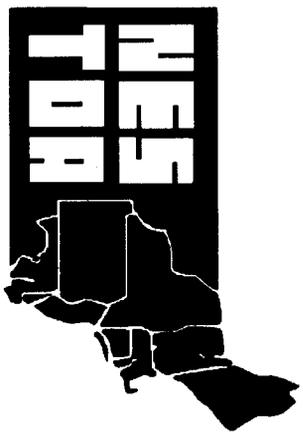
Vermont _____

Robert A. Gross
Vermont Department of Taxes
Pavilion Office Building
109 State Street
Montpelier, Vermont 05609-1401
802-828-2509



**North Eastern State
Tax Officials Association**

**North Eastern State
Tax Officials Association**



**North Eastern States
Domicile Guidelines
and Information
Brochure**

**A North Eastern State Tax Officials
Association Service Project**