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## Retiree's Woe: Tax Man Haunts Your Place in the Sun

### YOUR MONEY MATTERS

By EARL C. GOTTSCHALK JR.

Staff Reporter of THE WALL STREET JOURNAL

So you're dreaming about retiring to some bucolic town in Florida, or Nevada or Texas, a place where the sun shines almost every day and you can stretch your money a long way because there is no state income tax.

Maybe you ought to wake up.

There's an increasing possibility that your former homestate will find you and demand that you pay taxes for the rest of your life on your pension payout or distributions from an individual retirement account.

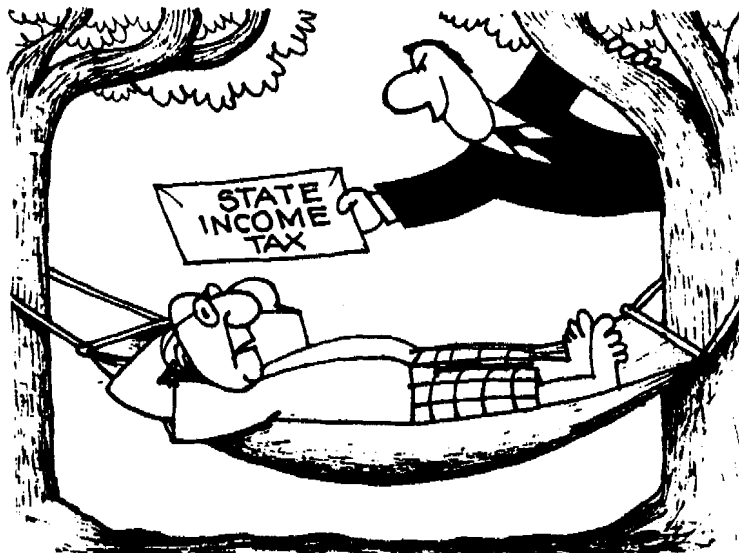
With varying degrees of aggressiveness, California, New York, Oregon, Minnesota, Vermont, Kansas, Arkansas and Iowa track down retirees who earned pensions while working in those states and present them with tax bills. If people don't pay up, some states use collection agencies and have seized property and bank accounts.

California, New York, Oregon and Michigan also tax IRA payouts to former residents, according to a survey by Anthony P. Curatola, professor of accounting at Philadelphia's Drexel University. Three other states — Louisiana, Mississippi and Kansas — impose a tax on people who take money out of an IRA the same year they move, he says.

The states' reasoning is simple: They merely deferred taxes on the money building up in those pensions and IRAs until it was withdrawn. Once the withdrawals start, they want their cut — regardless of where their former residents have moved.

In addition to states that currently tax pensions, several others — Arizona, Georgia, Kentucky, Louisiana, Ohio and North Dakota — have laws allowing them to impose these taxes, says the Federation of Tax Administrators, an association of state tax officials.

Many tax professionals think the practice will spread. "The problem will get worse — not better," says William Raby, senior tax lecturer at Arizona State University. "The retiree population is increasing, and the problems of revenue-hungry states are increasing."



States, led by California and New York, are already stepping up their enforcement actions on runaway pensions, attorneys who specialize in state taxes say. "We are finding a tremendous number of audits on pension distributions all throughout the U.S. this year," says Leonard Whitman, a partner at Siegel, Whitman & Stadtmayer, a Florham Park, N.J., law firm that handles 1,500 qualified retirement plans.

Getting a tax bill from the state where you used to live can be a shock. Take the case of Gertrude Eberly, 75 years old, of Fallon, Nev., a retired unemployment insurance supervisor for the state of California.

In 1988, after she had been retired for 10 years and had moved to Nevada, she received a tax bill from California for back state taxes. It included interest and a 55% penalty, and went all the way back to 1978, she says.

The original tax bill: \$8,000. "They scared the socks off me," she says. "I had no idea I owed them money."

Ms. Eberly, who says she lives on a fixed income of \$12,000 a year, agreed to pay \$50 a month to retire her back-tax bill. But in October 1989, Nevada's Legislature passed a law preventing other states from attaching property or bank accounts of Nevada retirees to pay back-tax bills. She stopped paying the \$50 a month.

"It's taxation without representation,"

she says. "Patrick Henry would roll over in his grave."

The states, however, don't see it that way. "If you are a retiree who made your income in California, you were given preferential treatment on the money that went into your pension plan," says Jim Reber, public-affairs officer for the California Franchise Board. "We said: 'Let's not tax these folks on all their fringe benefits. Instead, we will tax them when they receive the money and when they are in a lower tax bracket.'"

California collects about \$10 million to \$12 million a year from taxing pension payouts of former residents, Mr. Reber says. New York Tax Commissioner James W. Wetzler says his state collects "very little" from these taxes and is primarily targeting high-income former residents.

"Our main interest is corporate executives and partners in law firms — people who have the freedom to execute arrangements to shelter their income before they retire," says Mr. Wetzler.

#### Resistance Movement

The states' arguments don't placate William Hoffman, a retired chief scientist at Hughes Aircraft Co. in El Segundo, Calif. Mr. Hoffman, who moved to Carson City, Nev., after he retired, became enraged that he would have to pay California a part of his pension for life. So he founded RESIST of America Inc. (Retirees to Eliminate State Income Source Tax). The group now claims

tens of thousands of members and spearheads a battle to enact federal legislation to prevent states from taxing former residents' pensions.

Sen. Harry Reid (D., Nev.) recently got such a provision tacked onto the Democrats' federal tax bill, but President Bush vetoed the bill. Other retiree organizations — including the National Association of Retired Federal Employees and the Air Force Association — have joined the battle.

In the beginning, the issue of taxing former residents' pensions affected mostly retired government employees such as Ms. Eberly because of the easy access to their records. Now, increasingly sophisticated computer systems enable states to find private-corporation retirees as well.

#### Multistate Residents

The tax situation becomes even more complicated for employees who have worked in several states, accumulating portions of pension income in each. Upon retirement, they would have to fill out nonresident tax forms for all those states, allocating the amount earned in each state that taxes retirement income.

Not many people follow this rule, accountants say. And Mr. Wetzler, the New York tax commissioner, says: "No one defends a state of affairs where you have nonresident tax forms due from 20 different states." He heads a task force for the Federation of Tax Administrators that is trying to unravel the multi-state problem.

Still, the law is the law. So what's a retiree to do?

Because state tax rules on former residents' pensions, IRAs and other tax-deferred retirement plans vary widely, it's important to meet with a tax specialist before you move out of state.

Take the example of a New York state retiree who moved to Florida, and took a lump sum from his pension to invest in a real estate project. Paul R. Comeau, a Buffalo, N.Y., attorney, says the man paid federal income tax on the distribution, but didn't think he owed New York any tax. Two years later, New York checked his federal tax return as part of a program to find people who claimed to have left the state but were still legal residents. The state discovered the lump sum and assessed a state tax on it.

Mr. Comeau says the man could have avoided the tax if he had taken the pension in monthly payments as an annuity instead of a lump sum, because New York exempts pension annuities from state tax.

Says Stanford T. Young, vice president at P.R. Taylor Inc., a Palo Alto, Calif., investment-banking and financial-planning firm: "It's essential that you have someone who understands these issues working with you to establish an appropriate disclosure and filing position."