Trust Company *of* Vermont Quarterly Update

JANUARY 2025

Brattleboro ■ Burlington ■ Rutland ■ Manchester ■ Keene, NH

Employee-owned & Vermont-based tcvermont.com

Chris Cassidy
CEO

EVERY JANUARY millions of Americans make resolutions for the upcoming year. Since research shows that describing your goals in written form significantly increases the likelihood of success, I'll note my eight New Year's resolutions below.

According to the Pew Research Center, the three most common categories for resolutions are: health, finances, and personal relationships. However, according to Ohio State's Fisher School of Business, only 9% of Americans who make resolutions complete them. Hopefully, I'm among that 9%.

RESOLUTION 1 (finance) **Do a Roth IRA conversion:** I still have some Traditional 401k assets and would like to convert more to Roth to get additional money growing tax-free. Roth IRA assets can grow tax-free for the owner's lifetime, the surviving spouse's lifetime, and then up to ten years of a further beneficiary's lifetime.

RESOLUTION 2 (finance) **Make Roth IRA and Roth 401k contributions:** As in 2024, an individual can contribute $7,000 to their IRA, and I would like to contribute that amount to mine. In addition, an individual can make a 401k contribution of up to $23,500, which is $500 more than last year. I would like to do this as well to my Roth 401k.

RESOLUTION 3 (finance) **Make a 529 Plan contribution:** A married couple in Vermont can get a $500 tax credit on their Vermont return by contributing $5,000 to a 529 Plan. I would like to contribute to my daughter's 529 Plan to help with her future education expenses.

RESOLUTION 4 (finance) **Utilize annual gift exemption:** An individual can make a gift of up to $19,000 (up from $18,000 in 2024) to a child without filing a gift tax return. I would like to utilize as much of this exemption as possible to help save for my daughter's future.

RESOLUTION 5 (health) **Eat healthier:** I intend to heed the advice of nutritionists that eating healthy food supports immune cells, which defend against infections and other health threats, and allow the body to repair or replace damaged cells. I need to do a better job of eating less sugar and processed foods and a better job of eating anti-inflammatory foods like spinach, salmon, olive oil, blueberries and tomatoes.

RESOLUTION 6 (health) **Sleep better:** Experts claim that not getting enough sleep can raise your risk for chronic health problems, affecting your heart, brain, lungs, and immune system. I will do a better job of trying to get seven hours of sleep every night.

RESOLUTION 7 (health) **Drink more water:** Studies show that people who hydrate well reduce their risk of heart and lung disease later in life. I plan to hydrate more.

RESOLUTION 5 (personal relationships) **Make more time for friends and family:** I am told that having positive social interactions with loved ones can increase the release of oxytocin, dopamine, serotonin and endorphins, which boost both physical and mental health. I would like to make more time for friends and family and plan social events.

There are some great articles this month from contributors Jeanne Blackmore, Chris Lafayette, Nathan Alexander, Lisa Counsell and Jack Davidson, that provide more ideas for resolutions. Happy New Year and happy resolution planning! ■

Determining State Tax Residency

Nathan Alexander
CPA, CFP®

AS MANY OF OUR CLIENTS split time living between multiple states, we thought it would be useful to provide some basic context for the complex topic of state income tax residency. It's extremely important for those who spend time in more than one state to periodically check in with a qualified tax advisor who is familiar with these nuances to see if there are planning opportunities to either reduce tax exposure or bolster audit defense.

Statutory residents are people who spend more than 183 days physically present within a state, regardless of whether they consider that to be their home state. Consider, for example, a couple who lives in Vermont and Florida, but has considered Florida to be their home state for many years. They typically spend four months in Vermont and eight months in Florida. However, due to various circumstances, in 2023 they spent seven months in Vermont and five months in Florida. They exceeded 183 days in Vermont in 2023, and therefore are statutory residents of Vermont for 2023, and all their income is taxed by Vermont as if they were residents simply because this is the state where they spent most of their time. Worst still, the burden of proof is on the taxpayers to prove where they spent their time, so the Vermont Department of Taxes need only mail a basic questionnaire asking for detailed evidence which will be cumbersome to compile. A personal diary or calendar is not sufficient. Statutory residency audit cases are not especially time-intensive for the state tax department and can often catch taxpayers off guard when they consider their tax home to be somewhere else, but simply tripped this 183-day test in one particular year. To make it overly simplistic, anyone who spends most of their year in a state is generally a statutory resident of that state and needs to be prepared to pay all income taxes just as if they were a resident.

While statutory residency may drive income taxation simply based on where you spend your time, there is also the concept of "domicile" to consider. Your domicile is where you intend to make your tax home. It is generally determined based on five factors:

Factor 1 **TIME:** Where you spend your time—just like in the statutory residency example above, a person that spends seven months in Vermont and five months in Florida would (for the purposes of this factor) be a resident of Vermont. This is why it is so important to keep good records in real time: to be able to see a shifting trend toward a state that the taxpayer may not actually consider their tax home.

Factor 2 **INCOME:** Where you earn your income—this is more straightforward when a person is still working, but quickly becomes less clear for people who work remotely or have retired. For taxpayers who are fully retired and living on passive investments, this factor would likely neither help them nor hurt them in a domicile audit.

Factor 3 **FAMILY:** Generally, the state closest to your children or immediate family (which every state evaluates differently) would be your state of domicile under this factor.

Factor 4 **HOME RESIDENCE:** Of two homes, generally the location of the grander, or larger, or more valuable property would weigh in favor of that state as the owner's domicile.

Factor 5 **NEAR AND DEAR PERSONAL PROPERTY:** Where you keep your most valuable personal effects is a final factor in determining your domicile.

In addition to the five factors, there are tiebreaker tests, which all too often folks consider to be the most important of all, when in fact, these are only used if the standard five factors are inconclusive. Tiebreakers include looking at where the taxpayer is registered to vote, makes charitable donations, maintains community or religious ties or contributes community service.

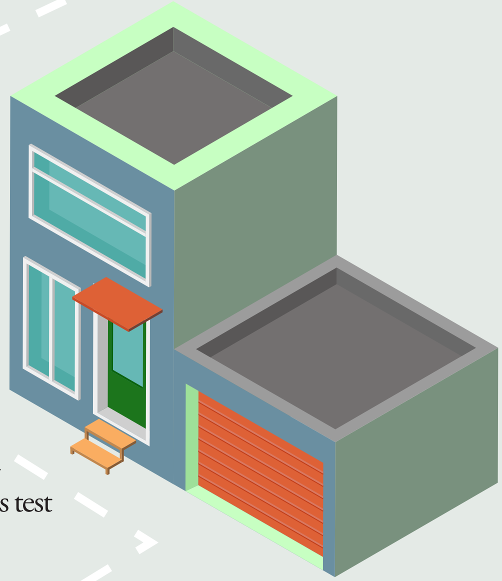
Here is a hypothetical example to illuminate the concept of domicile:

- Sam and Betty lived in Vermont for the last 30 years, but they fully retired from their jobs in July 2022 and now support themselves with social security and investment income.
- They own a home in Vermont presently, valued at $1 million, and a condominium in Florida valued at $700,000 that they have owned for many years.
- They have two children, a daughter living in Vermont with her family, their grandchildren, and a son who lives in Boston and is unmarried and without children.
- They have no notable personal property such as valuable artwork, but Sam restored a classic automobile, which he keeps in Vermont and only occasionally uses in nice weather.
- Day count:
  - In 2021 they spent 230 *VT*, 88 *FL*, 47 *other traveling*
  - In 2022 they spent 165 *VT*, 159 *FL*, 41 *other traveling*
  - In 2023 they spent 148 *VT*, 206 *FL*, 11 *other traveling*
    They change to FL Domicile in this year and stop paying VT income taxes
  - In 2024 they spent 159 *VT*, 196 *FL*, 10 *other traveling*

Prior to 2022, it was clear they were living and working in Vermont and domiciled in Vermont. However, their shift towards more time in Florida was gradual, and they did not sell their Vermont home and fully move to Florida, so the factors must be evaluated to see when a domicile shift in favor of Florida could be justified. Let us examine 2023 in more detail and see which test favors which state:

Factor 1 **FL:** For 2023 they could document 206 days in Florida, and that day count was perpetually growing in favor of Florida, while Vermont days were decreasing. That is a helpful trend favoring Florida argument for domicile.

Factor 2 **NO HELP:** The income test does not favor VT or FL since their income is all passive retirement, so this factor does not help either case.



Factor 3 **VT:** With a child and grandchildren residing in Vermont, this test will favor Vermont.

Factor 4 **NO HELP:** The homes are roughly comparable, and while Vermont is more valuable, it might not be well suited as they age in retirement due to layout, so at best this home test is no help, and at worst it favors Vermont.

Factor 5 **VT OR NO HELP:** With only basic personal property and no other major valuable items, it would be argued by the Tax Department that the classic car is a valuable item which is garaged in Vermont and favors Vermont.

Unfortunately for Sam and Betty, they focused their tax filing changes purely on the day count in 2023 favoring Florida, but failed to see how each test of domicile is important. With the income test not helpful, and perhaps the personal property test also thrown out, they would prevail in day count but not prevail in family test and possibly home test and would not be able to justify a Florida tax domicile shift. Remember that the burden of proof is on the taxpayer changing domicile, so that in this case Sam and Betty must demonstrate upon audit, with evidence, the outcome of each of these tests, and it is unclear their Florida tax status in 2023 would stand.

As you can see, state income tax rules as they pertain to domicile are complex and should be considered well in advance of making any tax filing changes to be sure the updated state tax status would be sustained on audit. We here at Trust Company of Vermont are happy to discuss and help guide you to resources that may help you prepare for such changes and have confidence in the state tax returns you file in the future. ■

Estate Tax Planning

IN UNCERTAIN TIMES

BEFORE THE RECENT ELECTION, Trust Company of Vermont often encouraged clients with state or federal taxable estates to establish irrevocable Spousal Limited Access Trusts (SLATs), and to make gifts to those SLATs as close as possible to the current federal estate tax exemption of $13.61 million per person. There are many reasons to make gifts to a SLAT but, until recently, a pressing reason was that the current federal estate tax exemption will sunset at the end of 2025, and decrease to about $7 million per person, unless extended by Congress. The message of the incoming Republican-controlled administration is that the current federal estate tax exemption will, at a minimum, be extended. As a result, clients are now asking: should we proceed with our SLAT planning? We continue to recommend gift planning with SLATs, and feel that the likely extension of the federal estate tax exemption provides some breathing room to attend to such planning with more care and precision.

For background, a SLAT is a special kind of irrevocable trust that allows a spouse to gift assets to an irrevocable trust to remove them from his/her gross estate for estate tax purposes, but the SLAT assets remain available as needed to the other spouse for his/her lifetime and, on that spouse's death, will be available for the children of both spouses. More simply put, a SLAT allows a married couple to remove about $26 million of assets from their gross estates for estate tax purposes while permitting access to the assets during their lifetimes as needed. For couples with state or federal taxable estates, SLATs are very powerful planning tools for the following reasons:

1 If you are resident in Vermont, gifts you make to a SLAT are excluded from your gross estate for Vermont estate tax purposes, and do not reduce your Vermont estate tax exemption, provided you survive the gift by two years. For example, if you gift $13.61 million to a SLAT and survive that gift by two years, none of that $13.61 million will be included in your estate for Vermont estate tax purposes and you will retain a $5 million Vermont estate tax exemption for any assets you own outside the SLAT at your death. As Vermont has a flat 16% estate tax on a decedent's assets in excess of $5 million, gifting assets to a SLAT can provide tremendous tax savings to Vermont residents. Other states, such as Massachusetts and New York, have similar rules with differing claw-back periods and exemption amounts.

2 If you are resident in Florida when you create a SLAT, and then establish residency in Vermont more than two years after the gift, the gift is similarly excluded from your Vermont gross estate. As an added benefit in this case, the SLAT will never be subject to income tax in Vermont because it was created by a Florida resident, though distributions of income (but not capital gains) from the SLAT to a Vermont resident would be subject

to Vermont income tax. It is not uncommon for Vermonters to establish residency in a low income tax jurisdiction on retirement, such as Florida or South Carolina, and then for the surviving spouse to return to Vermont after the death of the first spouse. In this instance, having a non-resident SLAT may result in significant income tax savings.

3 SLATs are typically structured so the assets are treated as owned by the person who creates the SLAT for income tax purposes but not for estate tax purposes. In other words, if you create a SLAT, you will pay the income taxes on the SLAT earnings (dividends, interest and capital gains). This sounds horrible, but it is actually helpful. By paying the income taxes on SLAT earnings, you reduce your remaining estate without using any exemption and the SLAT assets grow outside of your estate without any reduction for income taxes. You can terminate this feature of a SLAT at any time it becomes onerous to pay such income taxes; from that point forward, the SLAT would pay the income taxes.

4 The post-gift appreciation of the SLAT assets will be sheltered from estate tax for as long as the SLAT remains in place. If you create a SLAT that lasts for multiple generations, the SLAT assets will be sheltered from estate tax at each generation and thus can experience tremendous growth (free from estate tax!) while being available to support your descendants. A SLAT can also provide protection from creditors and in the event of divorce for as long as it remains in place.

All the above benefits continue to apply even if the federal estate tax exemption remains at its current level. However, it is by no means certain that the federal estate tax exemption will remain at its current level indefinitely. Historically, the federal estate tax exemption has never decreased… it has only increased. But federal and state budget deficits are projected to increase over coming years, increasing the pressure on federal and state legislatures to raise taxes, so a continued pattern of an exemption that only increases is by no means guaranteed. In addition, apart from the federal estate tax, state estate tax benefits of SLATs remain significant as many states have an onerous estate tax and relatively low estate tax exemptions. The multigenerational protection a SLAT can provide to children and grandchildren, by sheltering assets from estate taxes, creditors and in the event of divorce, also remains significant. Finally, many clients have been rushing to implement SLATs in 2024 and 2025 in advance of the projected sunset. In view of the likelihood that the current federal exemption level will remain the same for the foreseeable future, clients now have a longer runway to create and fund SLATs over a period of years. This will allow more careful planning and provide additional time to understand and experience the mechanics of SLAT administration and the benefit that SLATs provide. ■

Jeanne Blackmore

1. This article addresses gift planning to SLATs, but the same principles apply to gift planning to other types of irrevocable trusts by married or unmarried clients. We are happy to discuss gift planning with clients at any time.

Sharry Rutken Retires!

All our employee-owners have special qualities. Sharry stands out for her calm, kind, thoughtful and approachable nature. She has been a mentor, a leader, a sounding board, a creative mind, and a safe outlet for her colleagues. Perhaps an even greater impact is that her clients consider her a trusted friend.

For those who have had the honor of sharing the Manchester office with Sharry over the past 17 years, there will be a hole in their days.

Her retirement is so very well deserved. We collectively wish Sharry every happiness as she relaxes and turns her focus to the many local organizations that inspire her, her beautiful garden, time at the lake, and her husband, Chris.

Please join us in congratulating Sharry on an impressive career and wishing her the best for this next chapter!

Third floor conference room, Brattleboro

TCV Founders, 1999

Solace in the Mountains

Jack Davidson

Founder & Retired CEO

CHRISTOPHER CASSIDY, our President & CEO, announced in our last newsletter that although now retired I will again start writing my "colorful quarterly newsletter articles."

Chris reminisced in that newsletter about his temporary internship with the Trust Company of Vermont (TCV): "That summer, I had a little rolltop desk right next to Jack's desk...." Odd as it might sound, this article will focus on office space.

My parents migrated from upstate New York to Long Island, and I lived many years in a new house with no views. My infrequent visits upstate instilled in me the love of old houses and mountain views. I migrated in the other direction from Wall Street, where I was briefly employed by Chase Manhattan Bank in their Trust Department, to Vermont, where I could find old houses and mountain views.

When I became head of the Trust Department at Vermont National Bank (VNB) in 1975, I may have been considered a bit young. I hired older staff with very good skill levels, including a very well-educated investment manager who was 20 years my senior. I embraced collaboration rather than a hierarchical work environment, and to avoid the appearance of being head honcho, I did not take the best office.

TCV started in Brattleboro in 1999 in a historic brick building, formerly one of the oldest banks in town. The landlord, Senator Robert Gannett, occupied the second floor and we rented the first and third floors. We chose this location because of its visibility and cost. The conference room on the third floor was one of most impressive I have ever seen. The eight founders embraced a collaborative culture rather than the typical corporate hierarchical culture and often met there. To preserve the character of the room I built a bookcase to hide the three desks that housed me, Chris Cassidy, and our now retired Chris Chapman.

After the young Mr. Cassidy's temporary internship at TCV, I followed his academic path. Quoting him once again, "I was all set to start a job in the financial district of Boston when Jack called out of the blue. He informed me that Trust

CEO Cassidy's former College St. office

Jack's view from his former third floor office at Linden Street in Brattleboro

Company of Vermont was buying a building in Burlington, and he wanted to offer me a job as an investment officer in that office."

Before our purchase of the building on College Street in Burlington, we occupied a nearby rental unit on Battery Street. I traveled from Brattleboro to Burlington on a regular basis and stayed for two days. After our clients and staff left for the day, I would set up a blow-up bed in one of the offices. By 8:00 am the next morning when the staff arrived, the deflated blow-up bed was hidden in the closet.

As our company started to grow we needed more office space. Then I discovered the house on College Street, which resonated with my desire to live in old houses. I convinced my colleagues to make the purchase for two reasons: I loved the majestic old house and, importantly, it included a private room with a bed. When Chris Cassidy officially joined our company, I gave him a very nice office with a view.

Years later, following Chris's appointment as CEO, I discovered the unintended consequences of not promoting the best offices for those higher up in the hierarchy. As the staff expanded, our CEO moved his office to a closet with a window that gave him a nice view of a parking lot.

When I recently learned that we were moving from College Street to 463 Mountain View Drive in Colchester, I was devastated because I so loved our regal old building.

When I visited our new location, however, it was evident that CEO Cassidy and his collaborators had made the right decision. The fourth-floor location, with easy access and parking, has incredible mountain views!

It houses fourteen windowed offices with mountain views and three hallway offices. Staying true to our collaborative culture, our CEO chose one of the three small hallway offices.

Perhaps he did not realize that, when I was CEO, my office on the third floor at Linden Street in Brattleboro, although only 6 feet wide and 12 feet long, had a window with a wonderful view of Mount Wantastiquet. The solace of the mountains stirred my creativity and sustained me during uncertain or challenging times.

So, my suggestion to Mr. Cassidy: please choose one of the offices with a window and a wonderful mountain view, regardless of size. The view of the mountains is inspirational and dependable and comforting.

> Chris, you have been too much on the road lately. You need to zoom more from Burlington, and you might consider the train as well. You used to drive me from College Street to the Essex Junction train station to catch the train home to Brattleboro. I would gladly return the favor and pick you up at the train station in Brattleboro.
>
> —Jack

Lisa Counsell

I had the honor, recently, of being asked to join a panel of professionals for an estate planning workshop hosted by the Vermont Land Trust and the Vermont Women's Fund. The workshop was specifically designed for women to learn about and to discuss estate, investment, and planned giving strategies. We gathered at a beautiful church in the small town of Peru, Vermont, only a short distance from our TCV office in Manchester.

Several of my illustrious TCV colleagues have joined this type of panel before me and the event organizer sang their praises, highlighting, especially, their sense of humor. I am a lot of things, but I do not consider myself particularly funny! This left me a bit anxious as I took my microphone, but I was soon completely engaged in the day. The turnout was great, and the attendees came prepared with fantastic questions and an eagerness to participate in what turned out to be a very lively and informative discussion on a wide range of topics.

Here at TCV we often discuss and ponder our core values. One that has always meant a great deal to me is our core value of Community. A commitment to our Vermont communities was a key component of our founders' vision back in 1999. Not only Trust Company of Vermont as an entity, but our employee-owners individually and collectively invest time and resources in support of our local communities.

I have been inspired, therefore, to learn more about my fellow employee-owners' community endeavors. An article on all of us all at once would likely read more as a novella, so it seems appropriate to highlight a few at a time.

Livia DeMarchis, one of our in-house counsel working in our Burlington office, has been very involved in the state legislative process. She participated in the development of the Uniform Acts for Power of Attorney, Directed Trusts, and Decanting in Vermont. She is also on the boards of both the Lake Champlain Chamber Music Festival and Burlington City Arts, welcoming musicians from far and wide to Burlington each August and promoting art appreciation and education in the wider Burlington community. Livia enjoys art personally as well, most recently taking classes in jewelry making and wood block printing.

Chris Lafayette, a portfolio manager in our Burlington office, participated in a recent Business to Business Conference (along with our colleague Jill Ravey-Dolan). The opportunity to spend time with our peers and educate about what we do is critical to strengthening the resources we have to offer our clients and our communities. Chris takes educational outreach further in currently teaching "Financial Statement Analysis" at UVM. The obvious benefit is to the students, but Chris is quick to point out that he is learning as well. Younger people have a different perspective on finance and investing. Observing and understanding their habits and preferences is eye-opening! Outside of the office and classroom, Chris coaches 3rd and 4th grade basketball.

I caught up with Jeanne Blackmore, another of our in-house counsel, after a tennis session! Jeanne is a skilled tennis player and has also written numerous legal articles and given many presentations in her career. She now acts as a mentor for others building their professional resumes. She supports them in identifying opportunities, defining themes and outlining an article or speaking topic.

Jeanne, as do several of our employee-owners, works closely with our clients' estate planning attorneys. We collectively manage hundreds of trusts and are eager to share our administrative experience. Jeanne, especially, has a wealth of estate and tax planning knowledge that she is happy to share with fellow attorneys, a collaboration that strengthens the estate planning skill available in the wider Vermont community.

I have thought a lot about one of Jeanne's final comments when we were talking about this article. She was elaborating on the view of another colleague, Nanette Stevens. "We help people." When we sit down with a client or a prospective client, our goal is to help, to orient, to prepare them to work with their team – their attorney, their accountant. Of all the elements that go into building a healthy community, one of the first is helping people be prepared. Managing your personal affairs is a big part of being prepared.

Community means a lot of things. There is no doubt that we live in uncertain times. Great stability comes from a strong community, and I am proud to be part of a company that embraces this core value. I am prouder still to be included among my fellow employee-owners in experiencing the joy of participation. I hope to have more opportunities, and I hope, from time to time, to be able to share the stories of more of our employee-owners. ■

... experiencing the joy of participation.

Change is the Constant

Chris Lafayette
CFA

ON THE SURFACE, 2025 seems to have the potential to bring greater change than usual, particularly as we look to a new administration in the White House, one with control of both the House and the Senate. The incoming president will also inherit a US stock market which has rebounded strongly since the recessionary fears of 2022, and present valuations may require positive developments to keep the stock market afloat. As the pendulum in Washington inevitably swings from red to blue and back again, the investment approach at Trust Company of Vermont is, for the most part, unaffected by these shifts. This stability stems from two key factors: the way in which stocks are inherently valued, and the specific approach we utilize in selecting individual stocks and bonds.

Though numerous factors influence stock prices in the short term, over the long term, there is a strong correlation between a stock's price and its level of profitability. Warren Buffet demystified the nature of stock price movement when he described the intrinsic value of a company as "the present value of all future cash flows, discounted back to the present day." Crucially, the phrase "all future cash flows" refers to a time horizon that stretches far beyond the term of any sitting president. Changes in policy or regulation today are unlikely to impact a company's cash flow beyond the next four years. Thus, even if this administration has an impact on a stock's current cash flows, the vast majority of a company's intrinsic value remains constant over this relatively short timeframe.

The second reason for our resilience to political shifts is our emphasis on "quality" companies when constructing diversified portfolios. Some businesses may rely on government subsidies to turn a profit, and when those subsidies are withdrawn, the business can crumble. However, the "wide moat" of a quality business, one which creates a durable competitive advantage, has often been established over many market environments and regulatory regimes. These businesses also have balance sheets that allow them to withstand major disruptions, whether recession, inflation, war, or any number of unexpected challenges.

Of course, there is also the fact that campaign promises are like New Year's resolutions: many are left unfulfilled. As we assess the agendas of proposed cabinet appointees, we are cognizant of the varied interest groups that have a tendency to pull back on the most radical elements of change.

Four years can seem like a long time, but in the realm of stocks, economies, and nation states, it's fairly short. Changes are certain to occur, yet their magnitude and extent is very much up in the air. The changes that do occur, will allow us to evaluate the ramifications of different approaches and philosophies. Then, in less than two years, Americans will be back at the ballot box with another chance to enact change during the mid-term elections. In the meantime, we will remain vigilant in assessing the risks and opportunities that arise in what is, and always will be, an ever-changing world. ■