



Residency Audit Survival Guide

How to Prepare for a Residency Audit Before
New York Prepares a Case Against You

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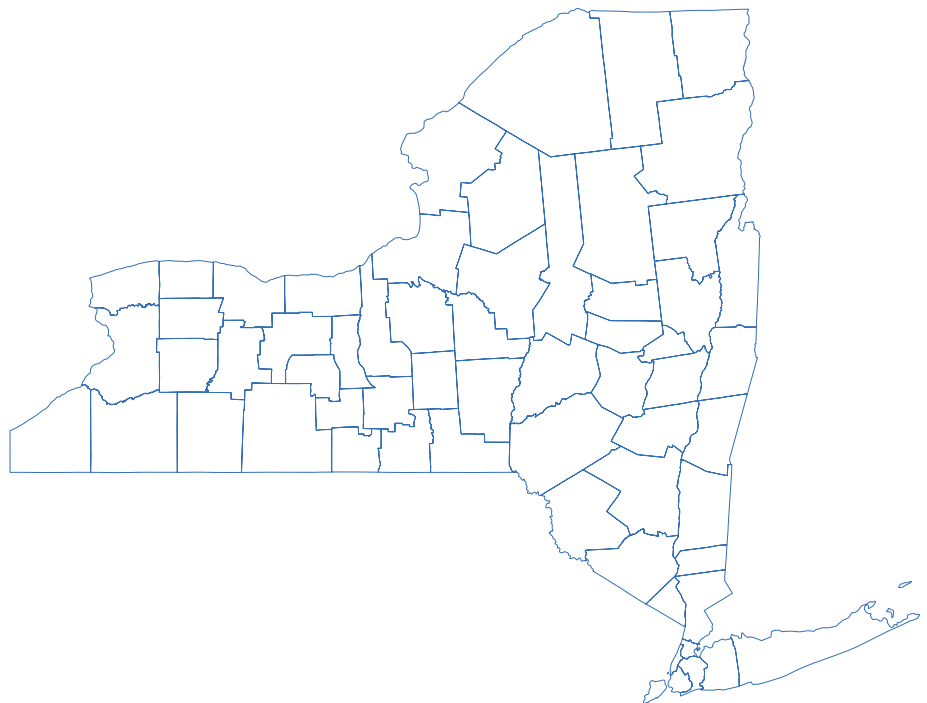
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Opening New York residency audits are rarely won with a single clever argument. They are usually won or lost through records, consistency, and timing.

People often think the question is simple: “I moved, so I’m not a New York resident anymore.” New York does not treat it that simply. The state looks at where you were domiciled, whether you maintained a permanent place of abode in New York, and how many days you spent in the state. It also looks at whether your actions match your story.

This guide is built to help you understand how that analysis works and how to reduce avoidable exposure.



THE TWO TESTS THAT MATTER

There are two main ways New York can treat you as a resident for income tax purposes.

Test 1: Domicile

New York says your domicile is your permanent home, the place you intend to return to after being away, and that you can only have one domicile.

Test 2: Statutory residency

New York says you can still be treated as a resident if you maintain a permanent place of abode in New York for substantially all of the year and spend 184 days or more in New York during the taxable year.

A person can lose on either test. Many taxpayers focus on the move itself and ignore the day count. Others track days but forget that their New York apartment, family setup, or retained connections may still create problems.



Domicile, what New York actually cares about A domicile case is really a credibility case backed by records.

New York's guidance says domicile turns on intent, but intent is measured by actions. The audit guidelines emphasize that deeds matter more than declarations.

That means the following usually matter more than saying "I moved"



where you actually live
most of the time



where your family life is
centered



what home is more
substantial



where your important
possessions are



where your business
activity still revolves



whether your documents
all tell the same story

Statutory residency, where people get trapped

Statutory residency is less emotional
and more mechan



New York says a permanent place of abode is generally a residence you permanently maintain that is suitable for year-round use. That this can include a home you own, an apartment you rent, or even a room in a relative's home if it is available for your use.

Then comes the day count. New York says any part of a day in the state counts as a day for this purpose.

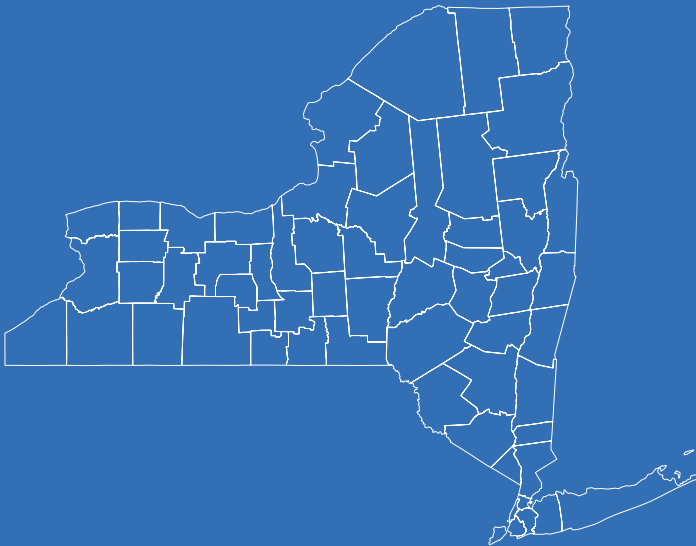
That is why a residency problem can develop even when someone feels they "mostly live" elsewhere.



What usually triggers a residency audit

Common triggers include:

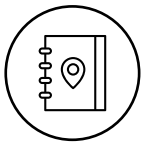
- ▶ a move from New York to a no-tax or lower-tax state
- ▶ a high-income year close to the move
- ▶ sale of a business, liquidity event, or major capital gain
- ▶ continued use of a New York home
- ▶ inconsistent documents, such as returns, licenses, school records, or mail trails
- ▶ day counts that are close to the threshold





What auditors look for A New York residency audit is document-heavy. The Nonresident Audit Guidelines describe the process as beginning with a residency questionnaire asking for information on domicile and days in New York, and they discuss reviewing supporting material to substantiate diary entries and other positions.

In practice, the file often includes



calendars and
travel logs



phone records



credit card
records



E-ZPass data



utility records



lease or purchase
documents



voting and driver's
license history



school records



business records
and meeting
locations



The survival checklist

a move or already concerned about an audit, start building a clean file now.

Your residency file should include

- ▶ a day-count log updated in real time
- ▶ housing documents for old and new residences
- ▶ proof of where you actually spent time
- ▶ evidence of shifting personal and financial life to the new state
- ▶ records showing what happened to the New York residence
- ▶ copies of filed returns and all residency-related schedules

THE 6 MISTAKES THAT HURT TAXPAYERS



1. Counting nights instead of days



2. Assuming travel days do not count



3. Keeping a New York place that still looks like home



4. Letting family, school, and personal records stay centered in New York



5. Reconstructing day counts after the audit starts



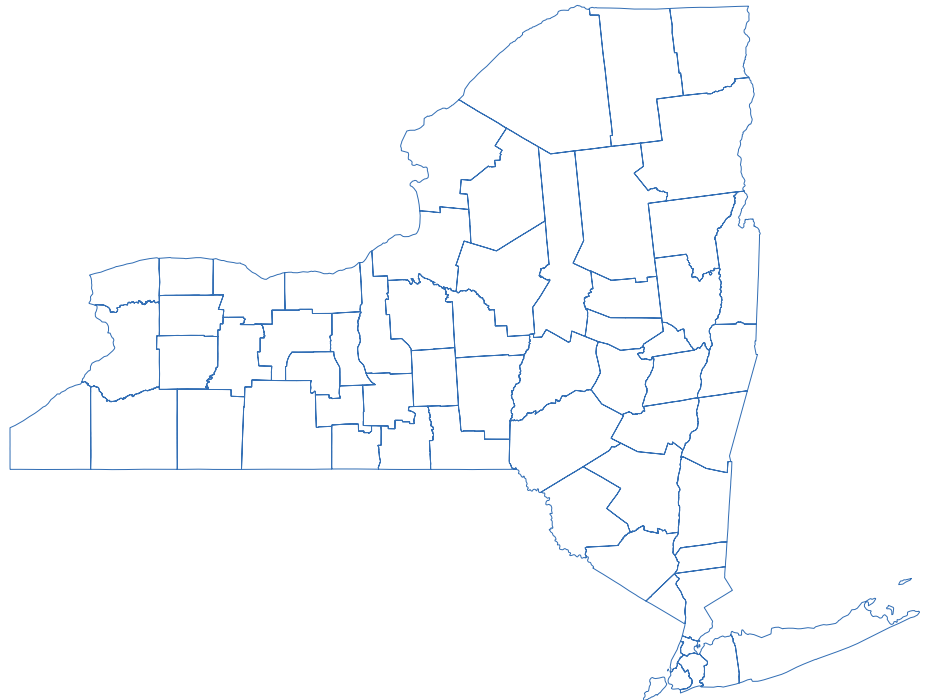
6. Telling one story to New York and a different story to lenders, insurers, schools, or federal agencies





If the audit has already started Do not treat the first questionnaire like a casual paperwork request.

The opening response often shapes the audit. Sloppy answers create admissions, inconsistencies, and document trails that are hard to undo. A disciplined response starts with understanding which test is actually in play, what the state is likely trying to prove, and what records support or undermine your position.



NY STATE TAX HELP

A Service of The Law Office of Jason Carr, PLLC

If you moved out of New York

split time between states

received a residency audit inquiry

we help clients assess exposure, organize records, and respond strategically.

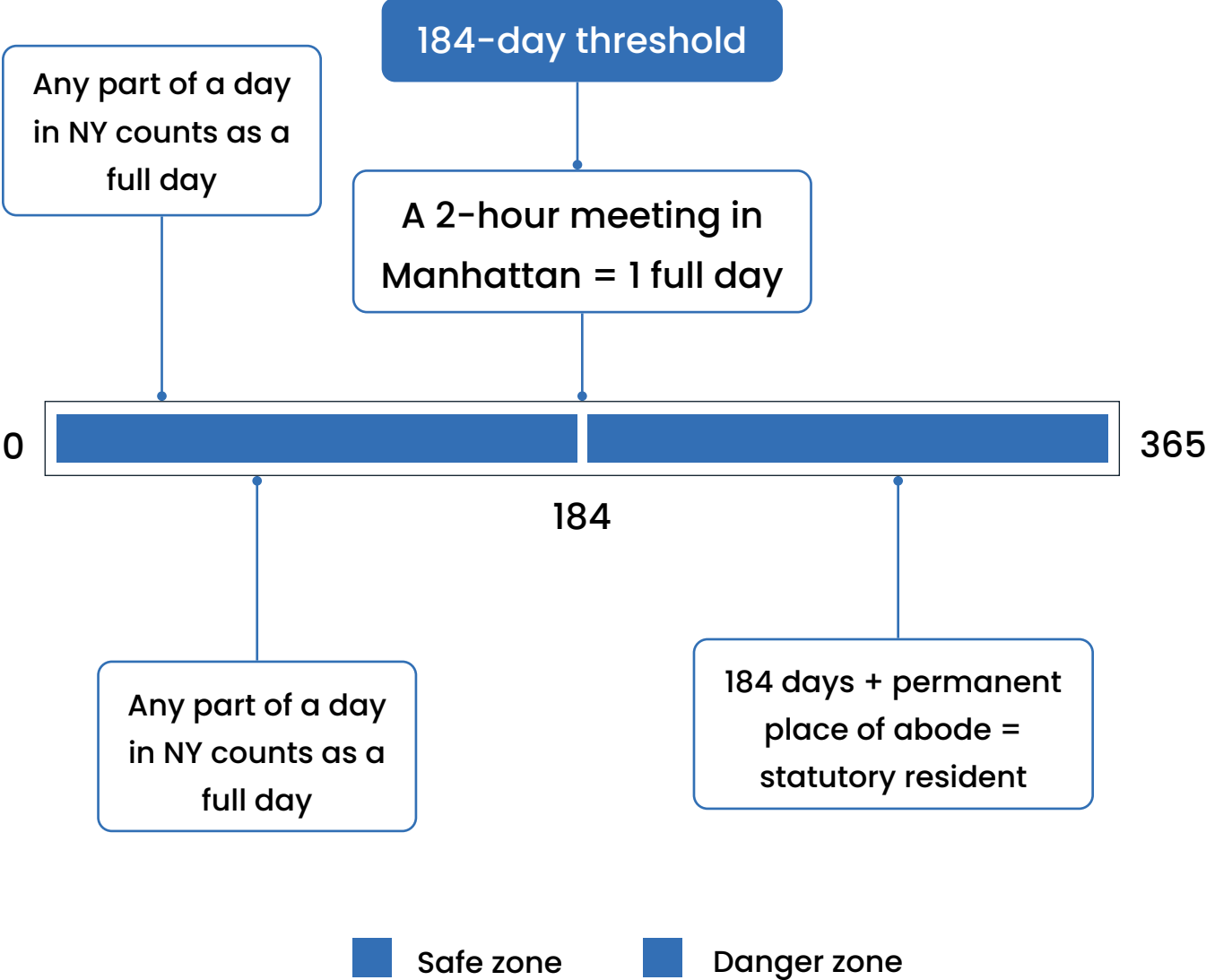


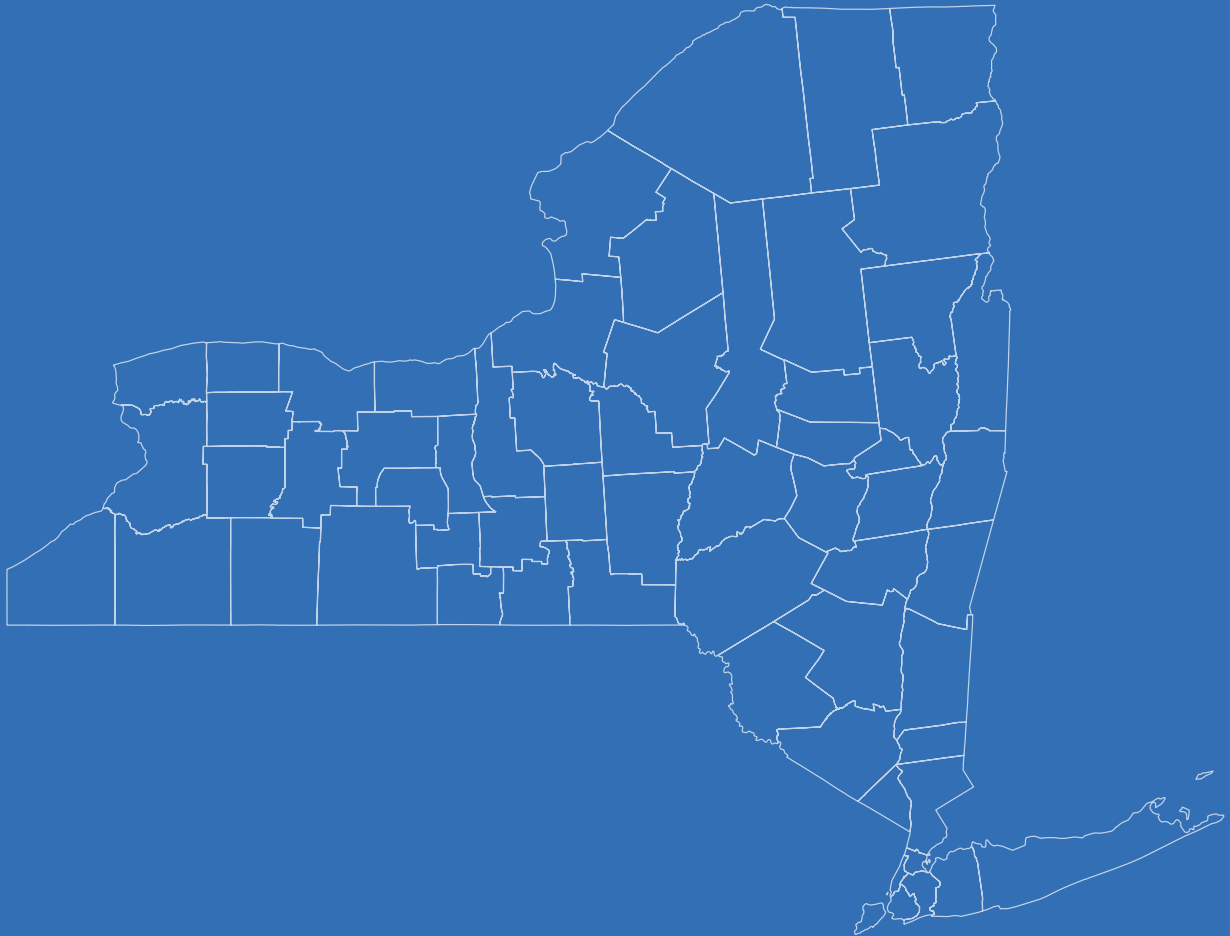
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DAY COUNT DANGER





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