

# Changing Domicile

## What You Need to Know Before Moving

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Are you thinking about moving south for the winter or relocating on a permanent basis? Moving from one state to another can create significant income and estate tax savings. For example, leaving high income tax areas such as New York City and California, both with the highest marginal income tax rates of around 13%, for states that do not have an income tax such as Florida, Texas or Nevada, can have a huge impact on your annual income tax bill. Or moving from New York with the highest marginal estate tax rate of 16% to Florida with no estate tax can significantly reduce your estate taxes. However, changing domicile is more complicated than it seems. When a taxpayer decides to change their domicile, they need to prove their intention to leave their old domicile and to establish a new one.

### What is a Domicile?

The definition of “domicile” varies slightly from state to state, but states generally agree on two key concepts: (1) a domicile is a person’s fixed, permanent and principal home that they reside in, and that they intend to return to and/or remain in; and (2) while a person can have multiple residences, they can only have one domicile.

### Why Does Domicile Matter?

The importance of an individual’s domicile cannot be overstated. It determines where you vote, file lawsuits, pay taxes and claim benefits. It also dictates where a will is probated, where your estate pays inheritance and estate taxes, the rules governing creditor protection and matters of family law such as guardianship over children and the rights of a spouse in a divorce.

While an individual can have only one domicile, two or more states may conclude that an individual is domiciled within their state. Therefore, it is critical to take steps to ensure that only one state can assert that you are domiciled within it. Failing to do so may subject you to taxation in two or more states, along with the legal costs that may be incurred to fight such claims. In addition, as individuals get older, it is important to quickly establish a new domicile to prevent multiple states from assuming jurisdiction over the individual’s estate.

### Changing Domicile Checklist

In order to change the state in which you are domiciled, you need to demonstrate your intention to make your new state of residence your permanent home. The subjective nature of determining one’s domicile makes such activity a very fact-intensive exercise and there is no absolute assurance of how your old state will treat your “move.” The longer you can show a lack of strong association with your former state, the more likely that your former state will fail in any attempt to claim your domicile in that state. Below please find key steps you should take as you change your domicile.

The more facts on your side, the better your case!

#### The Domicile Checklist

##### RESIDENCE

- Buy (preferably) or rent a local residence and furnish it with furniture. Empty residences do not work well.
- Change your address on all important legal documents.
- Notify the local taxing authorities (in both your former state and your new state) of your change in residence status.
- File for property tax benefits, such as the homestead exemption, in your new state while relinquishing any in-state resident benefits from your prior state of residence.
- If permitted by state law in your new state, go to the local Court and make a "Declaration Domicile" or similar statement in the Court records of the county of your new residency.
- If possible, sell or transfer any real estate in your former state to family or other entities (e.g., an LLP).

## TIME

- Stay outside of your former state for more than 183 days in a calendar year (i.e., over half the year).
  - Keep a calendar and attach one receipt per day showing that you were outside the state for that day.
  - You do not have to be in your new state for 183 days - just outside the former state for 183 days. However, it is important to remember that spending one minute of one day in the former state counts as a day spent in that state.

## DOCUMENT! DOCUMENT! DOCUMENT!

- Change driver's license to your new state and surrender your old license.
- Change vehicle registration(s) and insurance to your new state.
- Have your federal tax returns go to the new state address – never have them go to your former address.
- Change voter registration to your new state and terminate your former voter registration.
- Vote in person in your new state.
- Update wills, medical directives and powers of attorney under your new state's laws.

## PERSONAL MATTERS

- Change all bank accounts to your new state and do not retain any bank accounts in the former state.
- Focus your social, economic and other activities in the new state of residency.
- Change social clubs and service clubs to your new state.
- Consider shifting charitable giving to organizations in your new state.
- Serve on local charitable boards.
- Obtain a library card in your new state.
- Discontinue subscriptions to local newspapers and periodicals in your former state and subscribe to local newspapers in your new state.
- Engage a local doctor, dentist and/or chiropractor; have medical records moved to your local doctor.
- Move your religious affiliation and membership to a local group in your new state.
- Relocate personal effects, such as artwork, family heirlooms and photos and other personal articles to your new state.
- Place personal and valuable items in safe deposit boxes in your new state. Remember to surrender any safe deposit boxes in your old state.
- Have any minor children attend schools in your new state.

Changing domicile is a complicated and involved process. It is important to consult and work with your tax, estate and financial partners to ensure a successful transition. As your investment office, we will partner with you and your advisors to help guide you through the process.

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