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# Thinking of Moving to a Warmer Climate to Save Money? A Primer on Establishing Domicile or Legal Residency

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For retirees in the North and Midwest, it's easy to contemplate moving to a warmer climate in the throes of winter. And current migration trends show that two states, Florida and Texas, top the ranks of places they want to call home, with North Carolina, South Carolina and Georgia following closely behind.

The state where an individual retires can have a big impact on their net retirement income, and therefore their standard of living in retirement. Higher taxes can equate to larger withdrawals from retirement savings, presenting a higher risk that the individual will run out of savings before they retire (or, conversely, could require them to reduce spending in other ways to preserve a sustainable withdrawal rate). Many individuals seek to relocate to a state with lower taxes in retirement, allowing them to spend their savings in more enjoyable ways.

## DOMICILE VS. RESIDENCE

In the eyes of the law, your domicile is your home. While a person can have multiple residences, they can only have one domicile. Residence simply means living in a particular place, while domicile means living there with the intent to make it a fixed and permanent home.

To fully benefit from a move from a high-tax state to a low- or no-tax state, taxpayers must be able to demonstrate they've established domicile in the new state. There are specific requirements to establish domicile, and each state generally evaluates a reported change in domicile by looking at a variety of factors.

For retirees splitting time between two homes–one in a high-tax state and one in a no-tax state–a key goal should be to avoid triggering a state audit due to an unclear domicile status.

Maintaining residences in two states and dividing time between them is often where Departments of Revenue find cause to investigate.

## HOW DO STATES EVALUATE A DOMICILE CHANGE?

Many states evaluate a reported domicile change by focusing on five primary factors: time, homes, business connections,

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family, and possessions. Auditors typically compare your connections to each state with a simple question in mind: Are your ties stronger in the new state or in the former one? The stronger your ties to the new state, the more likely your new domicile will be respected.

There's a lot of misinformation out there regarding what it takes to establish domicile. One of the biggest myths is the idea of "six months and a day"–the notion that simply spending 183 days in the new state automatically changes your domicile. This is not entirely accurate, especially since most states require that the person claiming a change of domicile must prove it by either a preponderance of the evidence or, in some cases, by the higher standard of clear and convincing evidence.

Let's dig a little deeper.

Merely spending 51% of the year in the new location is unlikely to satisfy state tax auditors. Similarly, just making "paper changes,"such as obtaining a license and a library card in the new state, will not be an effective defense if audited. Instead, there's a fairly exhaustive list of steps you should consider to support your claim of establishing domicile:

- Spend at least 183 days in your new state each year.
- File for a homestead exemption, if applicable.
- Obtain a driver's license in your new state.
- Register to vote in your new state.
- Register your vehicles there as well.
- Make sure your banking, investment, and estate planning accounts originate in the new state, if they don't already.
    - Ex: Estate planning documents should originate in your state of domicile. If your domicile is FL, you do not want planning documents drafted in MA as state laws differ.
    - Ex: If you opened a regional bank account in MA but your domicile is in TX, you should close that account and open one in TX (Note: online banks would not necessitate a change).
    - Ex: Custodians like Schwab and Fidelity tend to be more evergreen because they are nationwide. But if you opened a brokerage account at a local bank or credit union, you would be best to close that and open an account in your domicile state.
- Join a library, religious organization, or local community group in the new state.
- Host holiday celebrations there and keep family heirlooms at that home.
- Establish relationships with medical, dental, veterinary, and tax prep providers locally.
- Relinquish residency-based benefits in your former state, such as property tax exemptions, resident hunting/fishing licenses, or in-state club memberships.

In short, your new state should become your personal headquarters, and as many aspects of your life as possible should revolve around that location.

Before officially making another state your permanent residence, it's wise to do deeper tax and estate planning. There could be opportunities to reduce taxes (not to mention avoid unforeseen pitfalls) depending on which state you're leaving and where you're heading.

Always consult with a tax professional, attorney, and your financial advisor when navigating a change of domicile. It's a process worth doing right, especially when it could meaningfully impact your financial future.

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