

Changing Your State of Domicile

The material in this handout represents general legal principles. Since the law is continuously changing, some provisions in this pamphlet may change with time. If further assistance is required, consult with an attorney about your legal rights and responsibilities regarding your particular situation.

EXPLANATION OF TERMS

- **Domicile** is the state where one has his or her true and permanent home. For military members, it is the place to which the member intends to return at the conclusion of his or her military service.
- **Legal Residence** is used frequently as a synonym of domicile. However, you may become a legal resident of a state for certain purposes without changing your domicile. For example, if you have lived in Nebraska for at least one year, you qualify as a “legal resident” for purposes of obtaining a divorce.
- **Home of Record** is not necessarily your domicile. Instead, it is merely the Air Force term for the address you listed when you entered active duty.

HOW WILL A CHANGE OF DOMICILE AFFECT ME?

Taxes: The biggest consequence of changing your state of domicile is state income taxation. Federal income tax laws apply to your military pay no matter where your domicile is located. However, your military pay is subject to state income tax only in your state of domicile. Different states tax military income at different rates.

Resident tuition rates: Resident tuition rates apply at state colleges and universities in the state of your domicile. Nevertheless, some states, including Nebraska, entitle military members and their dependents stationed in the state to resident tuition rates as well.

Voting: Most states only allow individuals who are residents of that state, or who are domiciled in that state, to vote. You never have the ability to vote in two different jurisdictions. As a result, your state of domicile is the only state in which you should vote.

CHANGING YOUR STATE OF DOMICILE

Three things are required to change your domicile:

- (1) Actual presence in the state where you desire to establish a new domicile;
- (2) An intention to remain there permanently or indefinitely;
- (3) An intention to abandon your old domicile. Current as of 1 Sep 12

PROOF OF YOUR DOMICILE

Proof of your domicile may be required if you attempt to take advantage of benefits offered to persons domiciled in a state, or if you claim a different domicile for the purpose of avoiding taxes.

Proof of domicile includes but not limited to:

- (1) Where you file your state income tax return;
- (2) Where you own real property;
- (3) Where you are registered to vote;
- (4) Where you hold professional licenses or maintain a place of business;

- (5) Where your car is licensed and which state issued your driver's license;
- (6) Your home state when you entered military service;
- (7) Your family's home (the place you visit when you are on leave or making a PCS move);
- (8) Total length of time you have been present in the state.

Although no single factor is controlling, some states, such as Nebraska, have a presumption that a person who is registered to vote in that state is a legal resident or domiciliary of that state. Consequently, if you do not wish to change your state of domicile, it would be wise not to register to vote in another state.

DOMICILE AND THE MILITARY SPOUSES RESIDENCY RELIEF ACT (MSRRA)

The MSRRA protects the right spouses to military members have to maintain their domicile as they move to accompany their spouse. Furthermore, if the spouse's state of domicile is the same as the military spouse's, then MSRRA prohibits the state of residence from taxing income earned by the spouse unless the state of residence is also the state of domicile. For more information see the MSRRA handout.

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