

Florida Residency - Is It The Right Decision?

The decision to establish and maintain a Florida residency may be very beneficial from a tax standpoint. Unlike in most states, Florida residents are not subject to state personal income tax. Additionally, Florida residents are no longer subject to Florida intangibles tax.

Establishing Residency Generally, you are considered a resident if your domicile is maintained in a particular state for the entire year. If you establish residency in Florida and break your residency in another state, you will no longer be taxed as a resident of that state. However, there are some factors that states review before they take you off of their state tax list. You may continue to be taxed as a resident if you maintain a permanent place of abode, such as a vacation home, and enjoy the home for more than 183 days during the calendar year. You may also be required to file as a non-resident if you have certain investments based in the state. You must often prove there is no intent to return to the state in which you are breaking residency, except to visit.

Many states consider a variety of factors in determining whether you have legally changed your domicile to another state, such as Florida. These factors may include any or all of the following on our "Domicile Checklist."

DOMICILE CHECKLIST

Primary Factors There are five primary factors that most other states (such as New Jersey) consider when reviewing a change of domicile to another state (such as Florida). It is important to note that there are no bright-line tests to determine a change in residency.

1) Home

- What residences are owned or rented by the taxpayer in each state
- Where are the residences located
- What is the size and value of each residence

2) Time

- Where and how does the taxpayer spend time during the tax year
- Is the taxpayer retired or actively involved in a business, occupation or profession in New Jersey
- How much does the taxpayer travel during the year and the nature of the travel
- What is the overall living pattern or life style of the taxpayer

3) Items near and dear

What is the location of the items or possessions that the taxpayer considers:

- "Near and dear" to his or her heart
- Of significant sentimental value
- Family heirlooms
- Collections of valuables
- Possessions that enhance the quality of one's lifestyle

4) Active business involvement

- How does the taxpayer earn a living
- Is the taxpayer actively involved in any business ownerships or professions in the state
- To what degree is the taxpayer involved in business ownerships in the state
- How does this compare to business interests outside of the state



5) Family connections

- Where does the remainder of the taxpayer's family live
- Where do the minor children attend school
- Where are the taxpayer's social, community and religious ties

Secondary factors There are also secondary or tertiary factors that a state such as New Jersey will consider in a reviewing a change in residency. Those factors include the following:

- The address at which bank statements, bills' financial data and correspondence concerning other family business is primarily received
- The physical location of the safe deposit boxes used for family records and valuables
- Location of automobile (boat) registration as well as the individual's personal driver's or operator's license
- The frequency and nature of business conducted within state for legal, medical and other
- The place of internment
- The location where the taxpayer's will is executed and probated
- Passive interest in partnerships or small corporations
- The mere location of bank accounts in contrast to the activity of the account
- Passive, honorary, lifetime or casual membership in clubs and organizations, including religious or cultural affiliations, where active participation is not required or demonstrated
- Contributions made to political candidates or causes
- The location where the taxpayer's individual income tax returns are prepared and filed

We can help We can help you weigh the pros and cons of residency in various states and help you determine if establishing residency in Florida is right for you. We can also help you with the documentation that is often necessary when breaking residency in another state. It is our goal to minimize your state and local tax burden by reviewing your options and helping you maximize your assets and cash flow.

Faith Gorman is the Director of Daszkal Bolton's State and Local Tax practice. She assists companies restructure their operations to minimize state and local income taxes, represents individuals and corporations in multistate tax planning and audit defense, and provides assistance for mergers, acquisitions and dispositions with multistate interests. Contact her via email at fgorman@daszkalbolton.com or at (954) 691-4521.

