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ARE YOU A FLORIDA RESIDENT?

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Perhaps a better question to ask is "Does the state you left still consider you a resident there"? Florida is considered a tax-friendly state. Many people wish to avoid the state income, gift, inheritance, capital gains, or estate taxation imposed by their previous state of domicile. Others seek the favorable Florida creditor protection laws, including creditor protection for homestead. And others seek the advantage of the "Save Our Homes" cap on property tax increases. However, those who want the tax advantages without really moving could face problems such as state taxation claims made by the non-Florida jurisdiction and competing probate proceedings after death.

Proving Domicile

While Florida's test is fairly easy, the more difficult test is proving your abandonment of your prior domicile to the taxing authorities in the old state. The first step should be to review the law of the former state of domicile with a qualified advisor in that state. Once the advisor has determined the key elements tested in the state you are leaving the next step is to meet as many of those elements as possible. The elements considered generally include whether the following things were done:

- ***Purchase or rent a residence in Florida and move in. If purchasing a home, file for the Homestead exemption***
- ***Replace as many non-Florida advisors with Florida advisors as possible, not only to prove domicile change but to avoid errors by advisors unfamiliar with Florida law***
- ***Consult a Florida attorney to have estate planning documents reviewed and changed to reflect Florida laws***
- ***Declare Florida to be your place of residence in all forms that require recital of residence, such as Social Security Administration papers, passports, contracts, deeds, leases, credit cards, etc.***
- ***Set up Florida banking and investment arrangements***
- ***Have all income sources and direct deposits sent to Florida financial institutions***
- ***Consult with a physician in Florida and have your medical records sent to the Florida doctor***
- ***Avoid spending significant amounts of time in your former state of residence***
- ***File Federal Income Tax Returns using your Florida address and mail them to the IRS in Atlanta, GA.***
- ***Remove contents of safe deposit boxes outside of Florida and move contents to Florida***
- ***Join social, political and religious organizations in Florida and change your memberships in out of state organization to non-resident status***

· ***If possible, limit business activities in the former state***

· ***Have all mail, bills and subscriptions sent to your Florida address***

Why It Matters

If enough revenue is at stake, an ambiguous domicile may trigger the taxing authorities in the prior state to begin a Residency Inquiry or Domicile Audit. The flow of money is what peeks the interest of the taxing authorities. Events that typically trigger an Inquiry are divorce, death, sale of home or business. The burden of proof generally falls to the taxpayer in these cases to show they have abandoned their prior residence and therefore should not be subject to taxes in the old state. Defending a Residency Inquiry can cost you or your heirs significant time and money. Accordingly, it is important to properly plan and consult with competent advisors in both Florida and the prior state of residence to assure that your domicile planning will accomplish its objectives.