



# DOMICILE VS. RESIDENCY: CONSIDERATIONS WHEN MAKING THE CHANGE

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Tax reform in 2017, known as the Tax Cuts and Jobs Act (TCJA), limited an individual taxpayer's ability to deduct the sum of state and local income taxes and real estate taxes to \$10,000 as part of their itemized deductions. Prior to the TCJA, individual taxpayers who itemized their deductions could fully deduct these taxes. With this change, more taxpayers are choosing to move to states with low or no income tax. Individuals who fail to properly establish domicile in the new state may face undesirable state and local tax (SALT) ramifications.

## DOMICILE VS. RESIDENCY

Domicile determines a taxpayer's home state for income tax purposes. Taxpayers who are a resident of a particular state may not be domiciled there for income tax purposes. To establish a new domicile, taxpayers must show documentation that ties have been cut from their previous state residency. This becomes a challenge for taxpayers with homes in multiple states.

## MAKING THE CHANGE

While proof of residency can be as simple as getting a driver's license from the new state, proof of domicile can be much more complex. Each state has their own requirements when determining a taxpayer's domicile. While the new state will likely welcome new taxpayers with open arms, the state being left behind may want to hold on to the taxpayer's tax revenue.

In order to make the change, taxpayers need to make sure they cut ties with their previous state of domicile. Several ways to do this include:

- ▶ spending more than half the year in the new state
- ▶ selling the home in the old state and purchasing a new home in the new state
- ▶ canceling the homestead exemption in the old state and filing for the homestead exemption in the new state
- ▶ changing the taxpayer's permanent mailing address
- ▶ registering to vote (and actually voting) in the new state
- ▶ changing doctors and attorneys to those operating in the new state

It is also recommended that the physical move be a single event or within a small window of time as opposed to incremental moves over the span of months or years. The taxpayer should consider documenting the process with photographs of the moving truck(s) and items placed in the new home. One of the many questions to consider when claiming a new domicile is "[where do you keep your teddy bear at night?](#)" The old state will want to see proof that a taxpayer has left their state and now permanently resides in a different state.

## CONCLUSION

For taxpayers ready to move to a new state, establishing domicile can be tricky. BDO understands the steps involved in this process and has issued guidance to seamlessly change the state of domicile.

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