

DOMICILE & RESIDENCY



**Office of the Staff Judge
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INTRODUCTION

The nature of military service often raises important questions regarding domicile and residency. These terms have precise legal meanings under state law. In addition, the Air Force uses its own term, “home of record,” which often adds to the confusion.

Residence: This is the place where an individual is physically present or currently living.

Domicile: Often referred to as “legal residence,” this is the state an individual considers to be one’s true and permanent home and where that individual intends to reside indefinitely. If not the individual’s current residence, it is where the individual intends to return after a temporary absence. An individual may change one’s domicile.

Home of record: This is the state from which a member entered military service. The home of record cannot ordinarily be changed and primarily affects entitlements after discharge from the service.

WHY IS DOMICILE IMPORTANT?

Domicile affects a wide-variety of important issues, including state income, sales, and inheritance taxes; rates for college tuition, and rates charged for various licenses (e.g., hunting or fishing); vehicle license and registration; where a will is probated; the right to vote; bonuses for wartime service; and the right to homestead; veteran’s claims; and tax exemptions.

IMPORTANT: A military member cannot change his or her domicile merely

by changing the state listed in the military pay records. While this may stop your previous domicile from automatically receiving taxes from your military pay, it does not mean you do not continue to owe these taxes. You may find yourself owing considerable back-taxes, along with penalties and interest, to your former domicile.

HOW DO I CHANGE MY DOMICILE?

In order to change domiciles, you must initially satisfy the following criteria:

1. You must be physically located and have an actual address in the new state;
2. You must intend to remain in the new state indefinitely or treat the new location as your permanent home; and
3. You must intend to abandon your old domicile.

Practically speaking, however, you will not be able to change your domicile simply by insisting that you have had the intention to remain in your new domicile and abandon your old one. You must produce evidence of your intentions by doing one or more of the following:

1. Register to vote;
2. Obtain a driver’s license;
3. Register your vehicle and transfer title;
4. Purchase real estate and apply for the homestead exemption;
5. Change your W-4 form;
6. Execute a will;
7. Open a checking account and other bank accounts; and/or
8. Obtain professional licenses, if appropriate

You may also manifest your intent through actions in your old domicile, such as selling real estate, closing bank accounts, and terminating other business relations.

DOMICILE AND MILITARY SERVICE

The Service members Civil Relief Act allows military members to retain evidence of their domicile regardless of where they are stationed. Military members domiciled in Alaska, for example, may retain Alaska Driver Licenses and continue to register their vehicles in Alaska throughout their military careers.

Perhaps the most important aspect of domicile to military members is state income tax. **Military pay is subject to state income tax only in the member's domicile.** A military member's dependents, however, are subject to state income tax in both the state of employment as well as their domicile.

This pamphlet is for basic information on domicile and residence. It is not intended to take the place of legal advice from a Judge Advocate. There may be important exceptions in some states to the information presented here. Please contact the 354th Fighter Wing Legal Office for questions and further information.

