

## **Understanding Change of Residency**

Minnesota has two interrelated requirements for determining whether you are a resident of Minnesota. If you wish to become a resident of another state, you must meet both requirements. The first requirement is that you demonstrate that you have established a new domicile to the new state. The definition of “domicile” and the related rules are discussed in the following section.

Even if you have established a new domicile in another state, you will be considered a resident of Minnesota if you have an abode (home) in Minnesota and you spend more than half the year (183 days or more) in Minnesota. This requirement is discussed in the Physical Presence Section below. In summary, if you have established a new domicile in another state and you have spent less than 183 in Minnesota you will not be considered a resident of Minnesota.

However, residency determinations are very complex with many nuances that must be considered in planning a change of residency. Proper planning of your change in residency helps reduce the risk that the taxing authorities find that you did not change your residency.

### **Domicile**

Your domicile is the location where you intend to make your home. If you wish to change your domicile from Minnesota to another state, Minnesota statutes and rules require that you must make the decision to become a permanent resident of another state and you must be physically present in that state after you have made the decision.

Your domicile is that place where your habitation is fixed, without any present intentions to reside somewhere else and it is your home that, whenever absent from that home, you intend to return. (Note that there are also some special rules for expatriates and military personnel that are not addressed in this page.)

Since your change of domicile is based on your intent, Minnesota has established twenty-six (26) factors that are used to determine a person’s intent to change his or her domicile. While the courts have looked at many factors determining residency, these twenty-six (26) factors that were established by Minnesota rules and they are frequently used to establish a person’s intent to become a domicile of another state.

It is often helpful to demonstrate a life event that precipitated a change of domicile such as job change, marriage, divorce, retirement, sale of a business, children have moved out of the house, etc. However, courts have established that a person’s motive for changing domicile is not relevant in determining whether an individual has in fact established a new domicile.

Your intent to change your domicile may be established through both declarations or statements a person has made indicating his or her intent to change their residency and through actions a person

takes to demonstrate his or her intent to change their domicile. Actions are given more weight than declarations in making the determination of whether there is a genuine change of domicile.

The following twenty-six (26) factors were established to help to determine a person's intent to change his or her residency:

- A. location of domicile for prior years;
- B. where the person votes or is registered to vote, but casting an illegal vote does not establish domicile for income tax purposes;
- C. status as a student;
- D. classification of employment as temporary or permanent;
- E. location of employment;
- F. location of newly acquired living quarters whether owned or rented;
- G. present status of the former living quarters, i.e., whether it was sold, offered for sale, rented, or available for rent to another;
- H. whether homestead status has been requested and/or obtained for property tax purposes on newly purchased living quarters and whether the homestead status of the former living quarters has not been renewed;
- I. ownership of other real property;
- J. jurisdiction in which a valid driver's license was issued;
- K. jurisdiction from which any professional licenses were issued;
- L. location of the person's union membership;
- M. jurisdiction from which any motor vehicle license was issued and the actual physical location of the vehicles;
- N. whether resident or nonresident fishing or hunting licenses purchased;
- O. whether an income tax return has been filed as a resident or nonresident;
- P. whether the person has fulfilled the tax obligations required of a resident;
- Q. location of any bank accounts, especially the location of the most active checking account;
- R. location of other transactions with financial institutions;
- S. location of the place of worship at which the person is a member;
- T. location of business relationships and the place where business is transacted;
- U. location of social, fraternal, or athletic organizations or clubs or in a lodge or country club, in which the person is a member;
- V. address where mail is received;
- W. percentage of time (not counting hours of employment) that the person is physically present in Minnesota and the percentage of time (not counting hours of employment) that the person is physically present in each jurisdiction other than Minnesota;
- X. location of jurisdiction from which unemployment compensation benefits are received;
- Y. location of schools at which the person or the person's spouse or children attend, and whether resident or nonresident tuition was charged; and
- Z. statements made to any insurance company, concerning the person's residence, and on which the insurance is based.

One fact that cannot be considered in residency determinations is the location of charitable organizations that a person contribution to.

There is also a presumption that you are domiciled where your spouse is domiciled. You are presumed to continue to be domiciled in Minnesota if your spouse maintains his or her domicile in Minnesota, unless there is affirmative evidence to the contrary, or unless you and your spouse have legally separated or divorced.

### **Physical Presence**

Even if you have established your domicile in another state as discussed above, you will be a resident of Minnesota in any year you have an abode (a home) in Minnesota and spend in the aggregate more than one-half of the tax year in Minnesota, unless you or your spouse are in the armed forces of the United States; or you live in a state that has a reciprocity agreement with Minnesota.

For purposes of the physical presence test, your presence within Minnesota for any part of a calendar day constitutes a day spent in Minnesota. You should keep a daily log of your location and maintain travel records to substantiate the days spent in Minnesota, in your new domicile and elsewhere. An exception to this rule is when you are traveling between two points outside of Minnesota and you transit through or layover in Minnesota.

The statute uses the term “abode” which simply means a dwelling that you or your spouse maintains. It does not matter whether you own or rent the dwelling and it does not matter whether you occupy the dwelling. Also, an abode includes a dwelling owned or leased by your spouse.

For more information on domicile and residency please feel free to call Bill Lunka at SALT Partners at 612-803-3539

This document was prepared by Bill Lunka, Director at SALT Partners, and is a general guide for individuals who are considering changing their residency from Minnesota to another state. Before taking any action with respect to your domicile and residency please consult with a state tax professional who have expertise regarding Minnesota’s domicile and residency statutes rules and cases.