



# **A HANDBOOK FOR ESTABLISHING RESIDENCY IN TEXAS**

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The information displayed in this handout is meant for the sole use of Active Duty service members, retirees, their families and other personnel eligible for legal assistance from the Goodfellow AFB Legal Office. The information is general in nature and presented to assist those eligible persons prepare for a legal assistance appointment with a professional in the legal office. Rights and responsibilities vary widely according to the particular set of circumstances in each case. Laws can vary across states, services, and civilian jurisdictions and laws are changed from time to time. Do not rely upon the general restatements of background information presented here without discussing your specific situation with a legal professional.

## **Changing Your State of Legal Residence/Domicile for Military Service Members**

### **States with No State Income Tax**

There are seven states that do not impose state income tax: Texas, Florida, Washington, Wyoming, South Dakota, Alaska, and Nevada. Under the Servicemembers' Civil Relief Act (SCRA), your military pay is protected from the income taxes of the state where you are stationed due to military orders, unless that state is also your legal residence/domicile. This means that if you were a resident of one of these no-tax states when you joined the military, you can typically avoid paying state income tax on your military pay throughout your career. For everyone else, understanding how domicile works and how to change it is crucial.

### **Home of Record vs. Domicile**

- **Home of Record:** The place from which you entered active duty. It determines your transportation entitlements upon separation from the service.
- **Domicile:** Your permanent home, the place you intend to return to when temporarily absent.

### **Common Misconceptions**

Simply changing the state of domicile on your pay records does not legally change your domicile. This might stop the finance office from withholding state income tax, but you could still be liable for back taxes, interest, and penalties. Additionally, you might face criminal prosecution for failing to pay state income taxes. Even if you validly change your domicile, your previous state may require proof of the new domicile before removing you from its tax rolls.

### **Establishing Legal Domicile in Texas**

If you're considering making Texas your permanent home, here are some steps you can take to prove your intent:

- **Written Intent:** Write a statement expressing your intent to abandon your previous domicile and establish it in Texas.
- **Physical Presence:** Ensure you and your family spend a significant amount of time in Texas.
- **Register to Vote:** Register to vote in Texas.
- **Vehicle Registration:** Register your car in Texas.
- **Driver's License:** Obtain a Texas driver's license.
- **Military Records:** Complete a DD Form 2058 (Change of Domicile) for your military records.
- **Spouse's Domicile:** If applicable, ensure your spouse's domicile is also in Texas.
- **Financial Assets:** Move your bank and investment accounts to Texas.
- **Children's School:** Enroll your children in Texas schools.
- **Marriage:** If married, consider getting married in Texas.
- **Taxes:** Pay personal property taxes (on vehicles, etc.) in Texas.
- **Property Ownership:** Own real estate in Texas.
- **Income:** Earn income in Texas.
- **Community Involvement:** Join local churches, professional, and service organizations.

### **Important Steps**

- **Be Consistent:** Cut ties with your old state and establish new ones in Texas.
- **Documentation:** Collect and maintain documentation that supports your intent to make Texas your permanent home.

- **Notify Your Previous State:** Send a letter to your former state's Income Tax Commission stating your intent to change your domicile to Texas, including the date and reasons why you qualify. Attach copies of relevant documents.

### **Additional Resources**

The Legal Office does not handle changes in residency or domicile. For any assistance regarding your state of legal residence, please contact your MPF or Finance Office.

### **Impact of Domicile**

Your state of legal residence/domicile can affect:

- Eligibility for resident tuition rates at state universities.
- Eligibility to vote or run for public office.
- Eligibility for various state-specific benefits.

By taking these steps and being thorough in your documentation, you can successfully establish Texas as your new domicile and enjoy the benefits that come with it.

*NOTE: This guide is intended for general informational purposes only and does not constitute legal advice. It is advisable to periodically verify this information and consult with a legal professional for the most current and applicable advice. If you have any questions or need to schedule an appointment with a legal assistance attorney, please call the Legal Office at 325-654-3203.*

AFFADAVIT OF INTENT TO CHANGE LEGAL DOMICILE

STATE OF TEXAS )

)

COUNTY OF TOM GREEN )

KNOW ALL MEN BY THESE PRESENTS:

COMES NOW, \_\_\_\_\_, Affiant, whose Social Security Number is \_\_\_\_\_ and whose \_\_\_\_\_ Driver's License Number is \_\_\_\_\_, being first duly sworn by me, upon his oath, and deposes and states:

I, \_\_\_\_\_, do hereby solemnly swear and affirm that I am a member of the Armed Forces of the United States/ a spouse of a member of the Armed Forces of the United States. I hereby declare my intention to make the State of \_\_\_\_\_ the state of my legal domicile. Thusly, I hereby and simultaneously abandon and reject the State of \_\_\_\_\_ as the state of my permanent home or legal domicile.

In support of my intention, I hereby declare and express my intent to vote in the general election in the State of \_\_\_\_\_.

I have obtained a driver's license from the State of \_\_\_\_\_.

I have titled and registered my vehicle(s) in the State of \_\_\_\_\_.

Further, I hereby declare and express my intent to have my last will and testament prepared under the auspices of \_\_\_\_\_ law and to have my estate administered accordingly, and;

Finally, I hereby declare and express my desire that this affidavit serve as a legal abandonment of the State of \_\_\_\_\_ as my legal domicile and to constitute written evidence of my intent to make the State of \_\_\_\_\_ my new and present state of legal domicile.

FURTHER AFFIANT SAITH NOT.

\_\_\_\_\_  
Affiant

Subscribed and sworn to this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a notary public in and for the State of Texas, and I hereby certify under my official seal that I am duly authorized by the laws of the State to administer oaths in Texas.

\_\_\_\_\_  
Notary Public In and For the State Of Texas

My Commission Expires: \_\_\_\_\_

STATE OF LEGAL RESIDENCE CERTIFICATE		
DATA REQUIRED BY THE PRIVACY ACT OF 1974		
<b>AUTHORITY:</b>	Tax Reform Act of 1976, Public Law 94-455.	
<b>PURPOSE:</b>	Information is required for determining the correct State of legal residence for purposes of withholding State income taxes from military pay.	
<b>ROUTINE USES:</b>	Information herein will be furnished State authorities and to Members of Congress.	
<b>MANDATORY OR VOLUNTARY DISCLOSURE:</b>	Disclosure is voluntary. If not provided, State income taxes will be withheld based on the tax laws of the State previously certified as your legal residence, or in the absence of a prior certification, the tax laws of the applicable State based on your home of record.	
<b>NAME</b> ( <i>Last, first, middle initial</i> )		<b>SOCIAL SECURITY NUMBER (SSN)</b>
<b>LEGAL RESIDENCE/DOMICILE</b> ( <i>City or county and State</i> )		
<p align="center"><b>INSTRUCTIONS FOR CERTIFICATION OF STATE OF LEGAL RESIDENCE</b></p> <p>The purpose of this certificate is to obtain information with respect to your legal residence/domicile for the purpose of determining the State for which income taxes are to be withheld from your "wages" as defined by Section 3401(a) of the Internal Revenue Code of 1954. PLEASE READ INSTRUCTIONS CAREFULLY BEFORE SIGNING.</p> <p>The terms "legal residence" and "domicile" are essentially interchangeable. In brief, they are used to denote that place where you have your permanent home and to which, whenever you are absent, you have the intention of returning. The Soldiers' and Sailors' Civil Relief Act protects your military pay from the income taxes of the State in which you reside by reason of military orders unless that is also your legal residence/domicile. The Act further provides that no change in your State of legal residence/domicile will occur solely as a result of your being ordered to a new duty station.</p> <p>You should not confuse the State which is your "home of record" with your State of legal residence/domicile. Your "home of record" is used for fixing travel and transportation allowances. A "home of record" must be changed if it was erroneously or fraudulently recorded initially.</p> <p>Enlisted members may change their "home of record" at the time they sign a new enlistment contract. Officers may not change their "home of record" except to correct an error, or after a break in service. The State which is your "home of record" may be your State of legal residence/domicile only if it meets certain criteria.</p> <p>The formula for changing your State of legal residence/domicile is simply stated as follows: <u>physical presence in the new State with the simultaneous intent of making it your permanent home and abandonment of the old State of legal residence/domicile</u>. In most cases, you must actually reside in the new State at the time you form the intent to make it your permanent home. Such intent must be clearly indicated. Your intent to make the new State your permanent home may be indicated by certain actions such as: (1) registering to vote; (2) purchasing residential property or an unimproved residential lot; (3) titling and registering your automobile(s); (4) notifying the State of your previous legal residence/domicile of the change in your State of legal residence/domicile; and (5) preparing a new last will and testament which indicates your new State of legal residence/domicile. Finally, you must comply with the applicable tax laws of the State which is your new legal residence/domicile.</p> <p>Generally, unless these steps have been taken, it is doubtful that your State of legal residence/domicile has changed. Failure to resolve any doubts as to your State of legal residence/domicile may adversely impact on certain legal privileges which depend on legal residence/domicile including among others, eligibility for resident tuition rates at State universities, eligibility to vote or be a candidate for public office, and eligibility for various welfare benefits. If you have any doubt with regard to your State of legal residence/domicile, you are advised to see your Legal Assistance Officer (JAG Representative) for advice prior to completing this form.</p>		
I certify that to the best of my knowledge and belief, I have met all the requirements for legal residence/domicile in the State claimed above and that the information provided is correct.		
I understand that the tax authorities of my former State of legal residence/domicile will be notified of this certificate.		
<b>SIGNATURE</b>	<b>CURRENT MAILING ADDRESS</b> ( <i>Include ZIP Code</i> )	<b>DATE</b>