

# CHANGING YOUR STATE OF DOMICILE



prepared by  
MOUNTAIN HOME AFB  
GUNFIGHTER LEGAL OFFICE



## Explanation of Terms

“**Domicile**” is the state where one has his or her true and permanent home. For military members, it is the place to which the member intends to return at the conclusion of his or her military service.

“**Legal Residence**” is used frequently as a synonym of “domicile.” However, you may become a legal resident of a state for certain purposes without changing your domicile. For example, if you have lived in Idaho for at least six consecutive weeks, you qualify as a “legal resident” for purposes of obtaining a divorce.

“**Home of record**” is not necessarily your domicile. That’s merely the Air Force term for the address you listed when you entered active duty.

## HOW WILL A CHANGE OF DOMICILE AFFECT YOU?

**Taxes:** Federal income tax laws apply to your military pay no matter where your domicile is located. However, **your military pay is subject to state income tax only in your state of domicile.** Some states do not tax military pay, others do. Tax rates vary from state to state. Some states tax only your basic pay. Others tax military entitlements and special duty pay as well.

**Idaho** does not tax the military pay of active duty Idahoans stationed outside Idaho. It does tax the military pay of those stationed in Idaho. If you are considering changing your domicile to Idaho, check with Accounting and Finance or your legal assistance officer to find out how it will affect the taxes on your military pay.

**Income** from other sources earned by members of the military is subject to taxation in the state where the money is earned. Personal property used in a private business or trade can also be taxed in accordance with the laws of the state wherein it is used.

**Income** earned by the spouse of a military member may not be subject to tax in the state where it is earned (but may be subject to tax in the state of domicile), depending on the domicile of the military member and the member’s spouse. Individuals in this situation are encouraged to see an attorney to determine in what state to file income taxes.

**Property** law varies from state to state (Idaho is a community property state). Check with your legal assistance officer to find out how changing your domicile may affect your property.

**Resident tuition** rates apply at state colleges and universities in the state of your domicile. However, some states, including Idaho, entitle military members and their dependents stationed in the state to resident tuition rates.

## **CHANGING YOUR STATE OF DOMICILE**

Military members often erroneously assume they can “pick” what state they are domiciled in for tax purposes. This is incorrect. Domicile is established by :

- (1) **Actual presence** in the state where one desires to establish a new domicile.
- (2) **An intention to remain** there permanently or indefinitely.
- (3) **An intention to abandon** your old domicile.

## **PROOF OF YOUR DOMICILE**

Proof may be required if you attempt to take advantage of benefits offered to persons domiciled in a state, or if you claim a different domicile for the purpose of avoiding taxes.

### **Proof of domicile includes:**

1. Where you file your state income tax return.
2. Where you own real property.
3. Where you are registered to vote.

4. Where you hold professional licenses or maintain a place of business.
5. Where your car is licensed and which state issued your driver’s license.
6. Your home state when you entered military service.
7. Your family’s home - the place you visit when you are on leave or making a PCS move.
8. Total length of time you have been present in the state.

**\*This handout is general in nature. It is not a substitute for legal advice from an attorney regarding individual situations. (August 2021)**

For additional information on this and other legal topics, see the Air Force Legal Assistance Website: <https://aflegalassistance.law.af.mil>