

APRIL 2022 NEWSLETTER

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HOW TO ESTABLISH YOUR LEGAL DOMICILE IN FLORIDA

1. **AWARDS:**

Pozzuolo Rodden Pozzuolo are pleased to announce that they have been nominated for the eighth annual Legal Elite Awards by New World Report. Recognizing that the legal industry remains one of the most fiercely competitive sectors in the world, the stated purpose of the award is to again recognize the dedication, tenacity and commitment of the region's finest legal firms and pioneering individuals.

2. **BLOGS:**

The following are a few of the business, tax, employment, estate planning and business litigation blogs posted on our main website www.pozzuolo.com:

- a. Choosing A Retirement Plan;
- b. Living Wills and Power of Attorney; and,
- c. The Use Of A Will In An Estate Plan.

Please visit our website www.pozzuolo.com for more information on these and other relevant business, tax, estate, business litigation and employment topics.

HOW TO ESTABLISH YOUR LEGAL DOMICILE IN FLORIDA

As discussed in the [March Newsletter](#), there are a myriad of financial benefits and savings, both during your lifetime and after you pass away, relating to your income, property and death taxes which you may obtain if you make Florida your permanent legal domicile. In this newsletter, we will discuss how to proceed in changing your permanent legal domicile from Pennsylvania or New Jersey to Florida if you spend a significant part of the year in Florida.

While you may be a resident of multiple states if you own homes in multiple states, you can only have one legal domicile. In order to establish a legal domicile, you must ensure that you meet all of the legal requirements for legally changing your domicile - it is not as simple as buying a home in Florida and becoming a “snowbird” by staying there a few months during the cold, snowy northeast winters.

First, you must have a honest and “bona-fide” intent to establish a new domicile in Florida and to give up your legal domicile in Pennsylvania/New Jersey. “Legal domicile” is generally defined as the place in which you intend to make your true, fixed, and permanent home and principal establishment to which you intend to return after you have been absent. Your desire to change your legal domicile can be for any reason, including, but not limited to: health, business, pleasure, better climate, better laws, or any other reason whatsoever. Not matter the reason for choosing to change your domicile, the “burden of proof” is on you and/or your estate in the event that your new domicile is ever challenged.

In order to establish a new domicile, you should first establish a permanent residence in your new home state of Florida. If you own your home in Pennsylvania or New Jersey, you should also own your home in Florida. Renting a home or apartment in Florida while owning a home in Pennsylvania or New Jersey makes it seem like you do not intend to permanently move to Florida. Many people choose to sell their home in Pennsylvania or New Jersey or at least downsize to a smaller home so that it does not seem like their Florida home is merely a smaller winter vacation home.

Part of establishing domicile in Florida requires spending the “majority” of the year there so you should avoid spending too much time in your previous state of residence. When assessing where a person is domiciled, tax auditors often look to the total number of days spent in a state. Most states consider a person to be domiciled in that state if they are present in one state or dwelling place for more than one hundred eighty three (183) days during a year. If you are concerned about the number of days you spend in Florida versus your old state, you should keep a detailed calendar of your time spent in each state, keeping in mind that many states consider any time spent in their state on a particular day as a full day towards the required 183 days. It is also recommended that you keep copies of travel records, including airline tickets/reservation information, credit card bills, gas receipts, toll receipts etc. if you

plan on frequently traveling between Florida and your old state of residence.

Once you have established a residence in Florida, you should obtain a Florida driver's license and amend any estate planning documents to name Florida as your domicile. You should also consider obtaining the following additional documents and/or records in Florida to support your legal domicile status as a Florida resident, which include but are not limited to:

- *Voter registration
- *Vehicle and Boat Registrations
- *Obtain a Florida driver's license
- *Maintain a physical mailing address, not a P.O. Box
- *Change passport address to Florida address
- *Memberships to clubs, charitable organizations, religious institutions in Florida (and discontinuing your associations with these organizations in your old state)
- *Transferring bank accounts and safe deposit boxes to Florida
- *File for the homestead exemption if you own a Florida home
- *Update your will and ancillary documents (Health Care directives, Living Will, etc.) to Florida forms
- *File income taxes and personal property taxes in Florida
- *Change to non-resident status for tax returns in your old states for income still earned there
- *Transfer all professional licenses
- *Officially change medical providers to facilities located in Florida

Some other steps you can take to solidify your new domicile in Florida include having family and social gatherings in Florida and moving all of your valuable items (i.e. artwork, furniture, etc.) to your Florida home. If your decision to move to Florida was mainly for health reasons, you should have your physician document that he or she gave you that advice.

Making the above-discussed changes will work in your favor and support your position that you have changed your domicile to Florida if you are ever challenged on your new domicile on your income tax return or your Estate has to file an Estate or Inheritance Tax return for property remaining in your old state. It is generally more likely that your Florida domicile status will be challenged during your lifetime on in income tax return due to the fact that your old state will want to continue taxing all of your income instead of just the income earned in the old state. If you successfully overcome a challenge to your Florida domicile during your lifetime, it is likely that your Estate will prevail in overcoming a challenge on the taxability of your Estate because your Estate will be able to show that you have been filing income tax returns as a resident of Florida.

If you would like to discuss your specific situation and how to best change your legal, permanent domicile to Florida, contact our office to discuss with one of our Estate Planning attorneys.

This newsletter is courtesy of Pozzuolo Rodden Pozzuolo, P.C.

To subscribe, unsubscribe, or for any questions, please contact us at INFO@POZZUOLO.COM.