



4 THINGS YOU SHOULD KNOW IF YOU'RE PLANNING A MOVE TO FLORIDA

A Private Clients Group Article

Whether it's for the weather, financial benefits or other reasons, Florida is a popular destination, particularly in retirement. There are many opportunities and responsibilities associated with relocating to Florida. Before you move, you should understand the pros and cons and how to take advantage of the benefits. Below is some information to get your started.

1. Change Your Domicile to Florida

In general, only those persons "domiciled" in Florida are entitled to certain benefits and are subjected to certain obligations. "Domicile" is not the same as "residence." While a person can have a number of different residences or be a resident of a number of different states, he/she can have only one domicile. Domicile is defined as actual residence within a particular state combined with the intention of making that state one's permanent home. In order to establish a new domicile, you must first abandon your old domicile. In order to take advantage of Florida's favorable lifetime and death tax laws, it is imperative to take all the steps necessary not only to establish your new domicile in Florida, but also to make clear that you have terminated your prior domicile in another state.

Since domicile is a question of *intent*, courts often look to a person's overall manner of living to determine whether there has been a change of domicile. Specific actions which show a person's intent to become domiciled in Florida include:

- Owning, leasing or occupying a residence in Florida and preferably spending at least half the year in the State
- Filing a Declaration of Domicile in your Florida county of residence
- Registering an automobile in Florida and obtaining a Florida driver's license
- Registering to vote in Florida and requesting that your name be stricken from the voting records of your former state
- Applying for the Florida homestead exemption
- Transferring financial accounts and moving valuables to a safe deposit box in Florida
- Working in Florida, sending children to Florida schools and paying Florida taxes
- Declaring yourself a Florida resident in oral and written communications, contracts and documents
- Updating Wills and Trusts to reflect Florida residency

2. Understand Florida Tax Laws

Florida does not impose income tax, estate/inheritance tax or gift tax on its residents or domiciliaries. However, a person may be subject to income and/or inheritance taxes in another state or states if that person has assets or other ties to those other states.

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Florida domiciliaries and residents are subject to these other taxes:

- Real estate taxes
- Real estate conveyance tax
- Sales and use taxes
- Unemployment compensation tax on household employees

3. Reevaluate Your Estate Plan

Laws applicable to the drafting of Wills and the probate process vary from state to state. Consequently, it's beneficial to consult with a qualified estate planning attorney in order to determine the appropriateness of your current estate plan. Following are some questions you should consider:

- Is your out-of-state Will effective?
- Does your current estate plan take into account any other state death taxes to which you may be subject?
- Are you taking advantage of your gifting privilege under Florida law?
- Is your choice of personal representatives and Trustees still appropriate?
- Does your Will relieve your fiduciary of cumbersome administrative requirements?
- Are provisions of your will subject to different legal interpretations under Florida law?
- Have you ever resided in a community property state?
- Have you adequately provided for the management of your assets if you become incapacitated?
- Have you signed a "Living Will" or "advance directive for health care"?
- Have you designated a person to make health care decisions for you?
- Is your estate plan current?

4. Obtain Help With Purchasing a Home

If your move to Florida involves buying a home, you will need to consider the following.

- Finding your home using a qualified real estate agent
- Finding a qualified real estate attorney to assist you with the transaction
- Making an offer to purchase and negotiating the appropriate terms in the contract for sale
- Securing financing
- Obtaining title insurance
- Preparing for closing
- Handling, after closing, the recording of all pertinent documents with the clerk of the court in the county where the property purchased is located
- Applying for the homestead exemption

Relocating to another state is a big step. If you've decided to move to Florida, we hope that the many benefits Florida has to offer will soon eclipse the hassles that inevitably accompany any move from one state to another.

If you have any questions about changing your domicile to Florida, contact a Cummings & Lockwood estate planning attorney and/or residential real estate attorney for further assistance.

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