



RELOCATING TO FLORIDA

A Private Clients Group White Paper

Drawing upon the experience we have gained through advising our existing clients, we have summarized certain local procedures and laws which may be helpful to you in preparing to live in or establish domicile in Florida.

Topics include:

- Florida Residence and Domicile
- Florida Taxes
- Estate Planning for the New Florida Resident
- Buying a Home in Florida
- Miscellaneous Information

FLORIDA RESIDENCE AND DOMICILE

There are many opportunities and responsibilities associated with relocating to Florida. Residents of Florida are entitled to certain benefits and are subjected to certain obligations. In general, however, only those persons "domiciled" in Florida are subject to Florida's jurisdiction regarding income and death taxation, devolution of property, execution of Wills and administration of estates and other assorted legal matters.

It is important to understand that a person's "domicile" may be very different from his "residence." While a person can have a number of different residences or be a resident of a number of different states, he 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.

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 filing a Declaration of Domicile in that person's Florida county of residence, registering an automobile in Florida, obtaining a Florida driver's license, registering to vote in Florida, applying for the Florida homestead exemption, working in Florida, sending children to Florida schools and paying Florida taxes.

All Florida domiciliaries and residents are subject to Florida's real property tax and sales and use taxes, as described more fully below. Florida domiciliaries and residents also may be subject to an estate tax in the future. Although Florida does not impose income tax, inheritance tax or gift tax on its residents or domiciliaries, a person may be subject to income and/or inheritance taxes in another state or states if that person has not properly changed his or her domicile to Florida. Therefore, 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.

When considering a change of domicile, it often is advisable to take advantage of certain provisions of the Internal Revenue Code which allow you to exclude all or a portion of the capital gain on the sale of your primary residence. As these provisions are complex, it is *essential* for you to discuss with your tax advisor, prior to your change of domicile, the proper timing of your change of domicile and the sale of any residence.

CUMMINGS & LOCKWOOD LLC

FLORIDA TAXES

The following is a brief description of some Florida taxes that may affect you as a resident or domiciliary of this state.

I. Income Taxes

Florida does not have a personal (individual) income tax.

II. Individual Intangible Personal Property Tax

Florida formerly imposed an intangible personal property tax on certain assets owned by a Florida domiciliary, or a Florida estate, partnership, or corporation and certain trusts. The tax was generally imposed on stocks (including stock in a closely-held corporation), bonds, notes receivable and interests in limited liability companies and partnerships registered with the Federal Securities and Exchange Commission. This tax, however, was repealed during the 2006 legislative session. Individuals who become Florida domiciliaries on or after January 1, 2007 need not be concerned about this tax. Individuals who have been domiciled in Florida prior to January 1, 2007 will only be liable for this tax with respect to tax years before 2007.

III. Florida Estate Tax

Florida cannot currently impose its estate tax. The tax law changes under the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) significantly changed the scheme of state death taxes. EGTRRA eliminated the "federal death tax credit." Before EGTRRA, most states shared in federal estate tax revenues by claiming the maximum amount permitted under the federal state death tax credit. To respond to the tax revenue loss, many states have begun imposing estate taxes separate from the federal state death tax credit system.

The Florida Constitution prevents an enactment of estate taxes separate from the federal state death credit system (decoupled state death tax). Therefore, commencing in 2005, Florida could no longer collect state death taxes. However, if a Florida resident owns real property in a state which has enacted a state death tax, their estate may be subject to taxes in that state.

IV. Real Estate Taxes

Each county and municipality in Florida collects from its residents real estate taxes on the value of real estate within its borders. These properties are assessed each year according to their values on January 1 for purposes of computing these taxes. Each county and municipality determines its own rate of tax (mill rate) according to its budget needs for the year. The assessed value of a property is then multiplied by the applicable mill rate for the year to calculate the tax. These taxes are due by April 1 of a given year for the prior calendar year and, if paid early, may be eligible for a discount of up to 4%. Tax bills are typically mailed out during September or October each year.

V. Real Estate Conveyance Tax

The State of Florida imposes a tax known as the Documentary Stamp Tax, which is an excise tax levied upon certain documents. Certain conveyances and written obligations to pay may be subject to the documentary stamp tax. The base rates of documentary stamp taxes are promulgated by the State of Florida and are regulated by the Florida Department of Revenue. In most counties, the tax rate for documents that transfer an interest in real property, such as a Deed, is \$.70 per every \$100 (or portion thereof) of the consideration paid. In some counties, such as Miami-Dade County, the rate differs. Documentary stamp tax on a mortgage, lien or other form of indebtedness is generally \$.35 per \$100 (or portion thereof) and is based upon the amount of indebtedness or obligation secured. Costs associated with the conveyance deed generally are paid by the seller, while costs associated with a mortgage generally are paid by the purchaser; both are collected when the deed or mortgage is recorded or at closing. The issue of documentary stamps can be a complicated area in some instances such as in transfers of real property in and out of trusts or into corporations. Your attorney can help you determine if your

CUMMINGS & LOCKWOOD LLC

transaction will be subject to the documentary stamp tax and also help you plan with this in mind.

In addition, the State of Florida imposes a nonrecurring intangible tax on the recording of a mortgage, equal to \$.20 per \$100 (or portion thereof) of the face amount of the mortgage. This tax generally is paid by the purchaser and is collected at closing or when the mortgage is recorded.

VI. Sales and Use Taxes

The State of Florida collects a tax on the sale of all tangible personal property, with certain exceptions. The tax rate is generally 6% of the purchase price, but may vary by county.

The State of Florida also imposes a “transient rentals tax,” which is a sales and use tax equal to 6% of the rentals charged for the occupancy of most accommodations (such as hotels, motels and apartments) for a term of six months or less. Certain types of accommodations, such as licensed nursing homes, are exempt from this tax. The transient rentals tax is collected in addition to other taxes or fees imposed on the same rental agreement, such as the tourist development tax.

Florida counties may impose additional sales and use taxes.

VII. Gift Tax

Florida does not tax lifetime gifts.

VIII. Reemployment Tax on Household Employees

Unless a household employee qualifies as an independent contractor, an employer residing in Florida may be required to pay a quarterly Florida Reemployment Tax. The state tax is due for all wages paid in a year if cash wages of at least \$1,000 are paid to a domestic employee in any calendar quarter. For new employers, as of January 1, 2001, the Florida Reemployment Tax rate is 2.7% for the first 10 quarters of operation. Thereafter, the employer is granted an experience-based tax rate. The applicable rate is applied only to the first \$7,000 of each employee's wages.

To make the required payments, you must first register online at www.floridarevenue.com (“Register to collect and/or pay taxes”) or file a paper Florida Business Tax Application (Form DR-1) to obtain an account number. The tax is then paid quarterly (by the end of the month following the calendar quarter for which the tax is due) by filing Form RT-6 with the Florida Department of Revenue. For more information, contact the Florida Department of Revenue Taxpayer Assistance Center at 850.488.6800 or visit www.floridarevenue.com.

A Florida resident employer must, of course, also satisfy all federal requirements. The employer is required to (i) file Form 941 with the Internal Revenue Service and pay FICA tax (social security tax) quarterly, (ii) file a Form 940 with the Internal Revenue Service and pay federal unemployment tax annually, and (iii) file Forms W-2 and W-3 annually with the Social Security Administration.

ESTATE PLANNING FOR THE NEW FLORIDA RESIDENT

Laws applicable to the drafting of Wills and the probate process vary from state to state. Consequently, a person relocating to Florida should review the peculiarities of Florida law with a qualified estate planner in order to determine the appropriateness of his or her current estate plan. Although you may not need to rewrite your Will, there may be good reasons for considering a revision.

I. Is Your Out-of-State Will Effective?

Most states, including Florida, recognize an out-of-state Will as valid so long as it was executed according to the requirements of the state in which it was signed. However, even if your Will was validly executed, its effectiveness should never be assumed.

For instance, if your Will does not have a “self-proving affidavit” which complies with Florida law, it will be necessary at your death to try to locate the witnesses to your Will. This will likely increase costs and delay the

CUMMINGS & LOCKWOOD LLC

admission of your Will to probate unnecessarily.

In addition, you may by the terms of your Will attempt to convey residential property which, by virtue of Florida's homestead laws, may result in an invalid devise. These provisions of your Will should be reviewed to ensure they do not conflict with these protections.

II. Does Your Current Estate Plan Take Into Account Any Other State Death Taxes to Which You May be Subject?

Your estate may be subject to death taxation in another state if you own real property or other assets located in that state or if that state claims that you are domiciled there at the time of your death. Depending on the laws of that state and the type of death tax imposed by it, additional steps may need to be taken in order to minimize the impact of that tax.

States are enacting new death tax laws due to the changes in the federal tax law; therefore, your estate plan should address these new taxes, especially if you own real property or other assets located in a state other than Florida.

III. Are You Taking Advantage of Your Gifting Privilege Under Florida Law?

Florida, unlike some other states, does not have a gift tax. Relocating to Florida may make it worthwhile to consider a lifetime gift program which is intended to reduce estate taxes payable at your death. Of course, you should consult an attorney with respect to any federal gift tax or generation-skipping transfer tax concerns.

IV. Is Your Choice of Personal Representatives and Trustees Still Appropriate?

If your Will names an out-of-state bank or trust company as Personal Representative or Trustee, you should confirm that the bank or trust company will be permitted to qualify and exercise fiduciary powers in Florida. If your Will names a nonresident individual as Personal Representative, he or she will not be allowed to qualify in Florida unless he or she is related to you in the manner provided by Florida statute. If your Trust Agreement names an individual residing far from Florida as Trustee, it may be impractical to expect such individual to carry out his or her responsibilities.

V. Does Your Will Relieve Your Fiduciary of Cumbersome Administrative Requirements?

Florida's probate procedures are in many instances different from those of other states. Although some of the procedures are required, others may be waived if desired by including appropriate provisions in your Will.

- **Fiduciary Bonds.** Your Personal Representative or Trustee will be required to post a bond for protection of your estate assets unless you elect in your Will to waive this requirement. Many Florida judges require a bond even if the Will waives this requirement. However, the waiver may still save the estate administrative costs by minimizing the size of the bond required by the judge.
- **Reexecution of Will Can Make Probate Easier.** To probate a Will in Florida, the witnesses must sign sworn statements testifying to its proper execution. If you do not reexecute your Will in Florida, it may be difficult to locate the witnesses upon your death. In addition, if the validity of the Will is contested, the witnesses may also have to appear in court – often a time-consuming, expensive trip. If, instead, your Will is reexecuted in Florida, the appropriate self-proving affidavit can be attached to avoid the need of contacting the witnesses after your death. In addition, if your witnesses are local, it is much easier and less expensive for them to appear in court if a Will contest makes their appearance necessary.

VI. Are Provisions of Your Will Subject to Different Legal Interpretations Under Florida Law?

Laws governing the interpretation of Wills vary from state to state. Your Will should be reviewed to determine whether Florida law varies from the law of your former state in any substantive way that defeats your estate planning goals. For example, you may have provisions in your Will which attempt to penalize your spouse or heirs if they contest any provisions of the Will or if they attempt to exercise their rights under Florida law to receive a

CUMMINGS & LOCKWOOD LLC

share of your estate. You also may have a provision attempting to convey your Florida homestead property in an impermissible manner. Provisions of this type are unenforceable and of no effect in Florida.

VII. Have You Ever Resided in a Community Property State?

A number of states, unlike Florida, are community property states. Whether property is community or separate affects your and your spouse's rights in determining your income and death tax liabilities and property rights. If you are relocating to Florida from a community property state, your assets should be reviewed to determine their character so that unanticipated and undesirable tax consequences can be avoided.

VIII. Have You Adequately Provided for the Management of Your Assets if You Become Incapacitated?

In some states, Powers of Attorney lose their validity when the principal becomes incapacitated. In Florida, they do not—if properly drafted. Consequently, it is usually advisable to sign a “Durable” Power of Attorney which appoints an individual as your agent to manage your assets in the event you can no longer do so. Such Powers of Attorney are an inexpensive substitute for the formal, after-the-fact court appointment of a Guardian should you ever become temporarily or permanently incapacitated.

If you executed a Power of Attorney in your state of former domicile or many years ago, it should be reviewed to determine whether it is valid in Florida and whether it will survive your incapacity.

In addition to a Power of Attorney, you may also want to consider establishing a Revocable Trust naming an individual, bank or trust company to take over the management of your assets upon your physical or mental incapacity. Under Florida law, you may act as sole Trustee of such a Trust until any such incapacity occurs.

If your financial or personal circumstances are complex, it may also be advisable to name a “preneed” Guardian in case of a court proceeding. Florida, unlike many other states, permits you, instead of the court, to choose this person. You may wish to take advantage of this opportunity to substitute your judgment in place of the court's.

IX. Have You Signed a “Living Will” or “Advance Directive For Health Care”?

Florida has enacted laws encouraging physicians and hospitals to follow the wishes of a terminally ill patient who earlier signed a Declaration, often referred to as a “Living Will” or “Advance Directive for Health Care,” requesting his or her doctor to withhold or withdraw extraordinary life support measures in the event of an end-stage condition. Although many other states have similar legislation, the consequences and requirements of signing a Declaration may vary considerably from state to state. If you have signed a Declaration in your state of former domicile, you should consult your Florida attorney to determine whether it complies with Florida law.

X. Have You Designated a Person to Make Health Care Decisions For You?

Florida law provides that you may designate a “Health Care Surrogate” to make health care decisions, including whether to remove life support systems, in the event you are unable to make such decisions yourself. In addition, you may confer upon your agent the authority to arrange for, and consent to, medical, therapeutic and surgical procedures. The appointment of a Health Care Surrogate is typically incorporated in an “Advance Directive for Health Care.”

XI. Is Your Estate Plan Current?

The last decade has seen continual and substantial changes in the estate and gift tax laws and the laws relating to administration of estates and trusts which may make your current estate plan obsolete. Changes in your personal, financial and family circumstances also may require a revision of your plan. Accordingly, you should carefully review your estate plan with your lawyer on a periodic basis, regardless of any change in state residence or domicile.

BUYING A HOME IN FLORIDA

I. Finding Your Home

CUMMINGS & LOCKWOOD LLC

One of the best ways to begin the search for a home is by working with a qualified real estate agent. A qualified agent can provide you with information, not only about housing, but also about neighborhoods and market appreciation, schools, transportation, recreation, shopping and related subjects. Most agents in the area are members of local real estate boards, each established to cover a different area, usually county-wide. All members of a real estate board have access to information about homes listed with that local board which are known as "multiple listings" or the "MLS."

In Florida, real estate agents are paid a commission for having produced a "ready, willing and able buyer." The amount of the commission is negotiable and is usually paid by the seller upon completion of the sale. A 5 or 6% commission is common. Generally, the 5 or 6% is split between the listing and selling agent at closing. This custom does not preclude a buyer from also engaging the services of a real estate agent to represent the buyer's interest in acquiring a home. Many realtors, in fact, hold themselves out as "Buyer's brokers" only and have established successful niche marketing practices.

II. Offer to Purchase and Contract for Sale

In most areas, offers to purchase a home in Florida are customarily made in the form of a written contract which is presented to the seller for his written acceptance. The contract form which is used by most brokers and many attorneys is a Florida Board of Realtors/The Florida Bar -approved form, known as a "FAR-BAR" contract, although in Collier County, many brokers use a form promulgated by the Naples Area Board of Realtors ("NABOR"). The Florida Association of Realtors endorses a contract known as the "FAR" contract, and many county realtor associations may also have their own approved contract forms. Most contracts typically contain the following basic information:

- The names and addresses of the parties.
- A list of the personal property (if any) to be included and "exclusions," items which the seller intends to keep.
- The legal description and street address of the property.
- The purchase price and the form, manner and time of payment.
- Provisions and contingencies for financing, if financing is desired or required.
- Instructions as to who will provide and pay for owner's title insurance, and when the title insurance commitment is to be issued.
- Exceptions to title (e.g., wetland and flood areas, unpaid taxes, easements, rights-of-way, judgment liens and mortgages) which may need to be cleared prior to or at closing.
- Deadline for the seller's (or buyer's, in the case of a counter-offer) acceptance of the contract.
- Anticipated closing date for completing the purchase.
- The form of deed to be provided.
- Other contingencies.
- Broker's fee.

The offer is customarily presented to the seller or his agent with a small deposit, usually up to 1% of the offered purchase price with an additional deposit (generally resulting in a total of 10% of the purchase price) to be made shortly thereafter. The seller, if he accepts the offer, will sign the contract. If he does not accept the offer, he may counter by crossing out the rejected terms, adding new terms, and initialing the changes. The seller then presents the revised proposal to the purchaser for acceptance. When both the purchaser and the seller have agreed on the terms, the contract is signed by all parties, and it becomes binding and enforceable. Since both parties will then be legally bound to their obligations under the contract, it is advisable to have your attorney review the contract terms prior to the presented offer, acceptance, and its execution.

CUMMINGS & LOCKWOOD LLC

You should bear in mind that offers do create “the power of acceptance” in a seller. Accordingly, they should be carefully considered. Your attorney will be pleased to discuss with you the content of your offer and the conditions you should attach to it under your particular circumstances.

Once the offer has been accepted, the purchaser should proceed with arranging for structure, roof, termite, and other standard inspections. These inspections should be completed in a timely manner (generally, within about 15 days) and the results communicated to the seller in writing, as provided in the contract. The purchaser also should be aware of proceeding with any other contract contingencies, such as a financing contingency whereby loan approval may be required by a certain specific time period. If the purchaser is buying a single family home, a survey and elevation certificate may also be needed.

III. Financing

If you seek financing to purchase your home, your contract should make obtaining the mortgage loan a condition to your obligation to purchase. Moreover, the contingency date set forth in the contract must allow you sufficient time to comply with your lending institution’s requirements for approval and commitment.

In most cases, when a buyer is obtaining a mortgage for a purchase, the lending institution allows the closing agent or buyer’s attorney to close the loan. However, the lender’s attorney prepares the note and mortgage, and other documents in the “loan package,” together with the other documents involved. The attorney who is acting as the closing agent for the transaction and is issuing the title insurance will also ensure that the buyer and seller meet the lender’s other requirements, such as survey, mortgagee title insurance policy and homeowner’s insurance.

IV. Title Insurance

The party that pays for title insurance in Florida varies from county to county. In many counties, such as Lee County, where our Bonita Springs office is located, and Palm Beach County, where our Palm Beach Gardens office is located, it is typically the responsibility of the seller’s attorney to examine title to the property or to obtain appropriate title insurance coverage. In Collier County, where our Naples office is located, the buyer’s counsel typically is asked to prepare and issue title insurance. Although the responsibility of who obtains title insurance differs by county, it is also negotiable in a contract. To this end, a complete search of the title to the property is performed going back at least 30 years or to another “root of title.” Having a post title policy may not require that a title search be performed as far back in time. In the past, the lawyer’s opinion as to marketability of title was generally set forth in a “certificate of title” or “title abstract.” Today, because of the availability of title insurance, attorneys are preparing fewer and fewer opinions of title. One reason for this is that almost all lending institutions require title insurance. Another reason is that title insurance, which is sold for a single nonrecurring premium, and its rates are promulgated by the State of Florida and provide coverage against title defects which may not otherwise be disclosed.

V. Closing

It is customary that the closing (completion of the purchase and sale) take place at the settlement agent’s office or at your own attorney’s office. However, many closings are conducted on a “mail away” basis where the parties execute their documents elsewhere and have the documents delivered to the closing agent.

As a buyer, you should be advised well in advance of the amount of funds necessary to complete the purchase. At the closing, it is traditional that you provide the seller with a wire transfer, cashier’s check or, in some cases, a check drawn on your attorney’s trust account. The seller will provide you with a deed in exchange for payment of the balance of the purchase price and other expenses of closing. In most cases, your loan will be closed simultaneously with the closing on the home.

Any documentary stamps on the conveyance deed are generally paid at the closing by the seller, while documentary stamps and intangibles tax on a mortgage are generally paid by the purchaser (see paragraph V

CUMMINGS & LOCKWOOD LLC

under the Florida Taxes section).

VI. After Closing

Once the closing has taken place, the closing agent (either the buyer's or seller's attorney) will proceed to record in the public records all pertinent documents with the Clerk of the Court in the county where the property purchased is located. There, he or she will record any releases of mortgages on the property, the deed, any other corrective documents of record and any mortgages to be placed against the property. The original deed will be returned to the purchaser's attorney once the recording clerk has had an opportunity to record it.

VII. Homestead Exemption

A homestead exemption for real estate tax purposes is available to persons residing on property who have made the property a permanent residence. This exemption shelters the first \$25,000 of the homestead's value from taxation. An additional exemption of up to \$25,000 will apply against the value of a homestead in excess of \$50,000 but less than \$75,000. To claim this exemption, taxpayers must reside and be domiciled in Florida on January 1 and make application no later than March 1 of that same year. Additional (modest) exemptions are available to widows and disabled veterans and others, and these vary county to county.

The homestead exemption must be applied for at the property appraiser's office in the county government center of the county in which your property is located. Although each county may have slightly different requirements, in order to apply for the exemption, you must at minimum produce a copy of the warranty deed or tax bill to your property, your social security number, your Florida driver's license, automobile registration showing the license plate number and your voter's registration card (if necessary, a recorded Declaration of Domicile may replace the driver's license and the automobile registration for non-drivers or the voter's registration card for non-voters). If the property is in joint names, both owners should apply for the homestead exemption and must furnish these documents in person, if the exemption is to apply to both parties. Please contact your attorney for more information.

Another benefit afforded to those who file for homestead is the effect of the "Save Our Homes" Amendment to the Florida constitution. Often referred to as the "SOH cap," this amendment caps the percentage increase of the valuation (for property tax assessment purposes) of any residence that qualifies for the homestead exemption to the lesser of the Consumer Price Index (CPI) or 3% a year, preventing unexpected surges in your property tax bill. If these conditions apply to you, be certain to discuss the exemption with your attorney or with the local taxing authority.

An amendment to the Florida Constitution has made the SOH cap portable. That is, persons who sell their Florida homestead may now transfer some of their SOH benefits to a new Florida homestead, provided that the new homestead is purchased within two (2) tax years of the sale of the prior homestead.

The portable portion of any SOH benefit is dependent upon the value of the newly purchased homestead in comparison to the prior homestead. If one is "upsizing," the portable portion is calculated as the difference between the prior homestead's market value and its SOH assessed value at the time of sale, but in no case may it exceed \$500,000. Thus, a person who has moved from a \$500,000 homestead having an SOH assessed value of \$300,000 to a \$600,000 residence will be able to apply \$200,000 of his or her SOH cap to the new residence. If one is "downsizing," the portable portion of the SOH cap is initially determined in the same way. However, only a fractional share of the difference between the prior homestead's market value and its SOH assessed value will be portable; the fraction is determined by comparing the market value of the new homestead against the market value of the old homestead. Again, in no case may the portable portion exceed \$500,000. Thus, a person who has moved from a \$500,000 homestead having an SOH assessed value of \$300,000 to a \$400,000 residence will only be able to transfer \$160,000 of his or her SOH cap. Although there is a \$200,000 difference between the prior homestead's market value and its SOH assessed value, the new residence is worth only 80% of the value of the prior residence. Thus, only 80% of the \$200,000 difference is portable.

CUMMINGS & LOCKWOOD LLC

In addition to the property tax exemption and the property valuation cap, the homestead exemption provides other rights for property owners. Under Florida law, the property rights of a spouse and minor children are safeguarded against attempts to convey or encumber a primary residence (the property qualified for the homestead exemption) without the written consent of both spouses. Therefore, even if your home is purchased in the sole name of either the husband or the wife, upon reconveyance of your home or on obtaining a mortgage on your home, the buyer or mortgage lender will require:

- The signature of the other spouse on the conveyance and/or mortgage deed;
- A written waiver of homestead rights by the other spouse; or
- A statement on the deed confirming that the property is not the homestead of the person signing the document.

We would be happy to discuss with you any questions you might have about the process of purchasing, leasing or selling a Florida Residence.

MISCELLANEOUS INFORMATION

I. Registration of Motor Vehicles

For purposes of automobile registration, a motor vehicle must be registered in Florida within thirty (30) days of the owner becoming employed in Florida, placing children in public schools in Florida, or establishing residency in Florida.

Any nonresident who resides in Florida for more than six (6) consecutive months but attends college on a full-time basis or participates in a college work-study program is not required to register his or her car in Florida if such car is already registered in another jurisdiction.

Owners must carry their Florida registration and automobile insurance card in their motor vehicles at all times.

Your car can be registered by appearing in person at the county tax collector's office and presenting some form of identification showing your photo and signature (such as a Florida driver's license). The telephone number for each office is listed under the county government section of the phone book or can be found at www.flhsmv.gov/locations. In order to register your car, you will be required to pay a number of fees, including a charge for: the issuance of the certificate of registration; the issuance of the certificate of title; the license plate; and the license plate renewal decal.

To register your car, you are also required to submit:

- Proof that proper insurance has been obtained (obtain such proof - an insurance card, policy or binder - from your insurance company). Existing policies which are written out of state must be transferred to a Florida agent. Generally, a person must prove that he or she has personal injury protection of at least \$10,000 and protection against property damage of at least \$10,000.
- Application for Registration.
- Certificate of Title and Registration (supplied by your state of previous residence). If the title is held by a lienholder, a form letter is available at the county tax collector's office which requests that the title be sent to the county tax collector for registration.
- Physical verification of Vehicle Identification Number and Odometer Reading (you must present either Affidavit HSMV82042 evidencing a physical examination of your car by a law enforcement officer, or simply drive your car to the county tax collector's office and their personnel will do the examination and execute the verification form).
- Submit a completed Application for Certificate of Title with/without Registration (Form HSMV 82040).

CUMMINGS & LOCKWOOD LLC

For more information about vehicle registration, contact your county tax collector's office or contact the Florida Department of Highway Safety & Motor Vehicles (Tallahassee, Florida) at 850.617.2000 or online at www.flhsmv.gov.

II. Driver's License

Florida also requires new residents to obtain a Florida driver's license within 30 days of establishing residency in Florida. All licensed drivers must pass written, hearing, eye and road tests, for which a fee is charged. However, drivers currently licensed in another state may apply for a Florida license without taking a written or road test (a hearing test and vision screening are still required).

Beginning January 1, 2010, Florida has new documentation requirements for residents obtaining a new driver's license. An applicant is required to bring to an issuing office original documents that prove the applicant's identity, social security number and residential address (2 documents) and pay \$48. Office locations and a checklist of what to bring can be found on the website www.gathergoget.com. The website is sponsored by Florida Highway Safety and Motor Vehicles and utilizes a questionnaire to assist you in gathering the correct materials for your circumstances so that you will not have to make multiple trips. Unlicensed drivers applying in Florida must also offer proof of completion of a Traffic Law & Substance Abuse Education Course. In addition, a new resident must surrender his or her current out-of-state license and provide a verification of his or her address. (Prior to November 1, 2009 part-time residents could elect to retain their valid out-of-state license and receive a Florida license which stated "Valid in Florida Only"; however, these licenses can no longer be issued or renewed.)

Persons may apply for a Florida driver's license either on a walk-in basis or by appointment with any office of the Division of Driver Licenses (the number is listed in the government pages of the phone book under "Florida, State of/Highway Safety & Motor Vehicles Department of" or can be found at www.flhsmv.gov/locations). These offices are normally open between 8:00 a.m. and 6:00 p.m. Monday through Friday. For any additional information contact your local Division of Driver Licenses or the Florida Department of Highway Safety & Motor Vehicles.

III. Voting

In Florida, to register to vote as a new resident you may complete a Florida Voter Registration application form online, print it off, and mail it into your county's Supervisor of Elections. New applicants must provide a Florida driver's license number. Once you have properly registered, the supervisor of elections will contact your former place of residence in order to have your name removed from the voting rolls in that municipality and state.

Note that to be eligible to vote in a particular election you must register well before the election date. Consult your local supervisor of elections to determine the deadline.

IV. Declaration of Domicile

A Declaration of Domicile may be filed by appearing in person or mailing a completed and notarized Declaration form to the recording division in the county government center of the county in which you live. A filing fee is required, typically \$10 (depending on whether or not a notarized copy of the Declaration is desired), and checks should be made payable to "Clerk of the Circuit Court." You should consult your tax advisor prior to filing your Declaration of Domicile.

After the Declaration is recorded by the Clerk, it will be returned to you by mail, typically within two weeks or so. A photocopy of the original recorded Declaration should then be sent to your attorney and accountant, for their files, and to the tax department of the state of your former domicile.

CONCLUSION

We hope that the many benefits Florida has to offer will soon eclipse the hardships that inevitably accompany any move from one state to another.

CUMMINGS & LOCKWOOD LLC

If you have any questions about the subjects covered or other legal problems you may encounter, we would be glad to be of further assistance.

Revised January 2020

Copyright 2000, Cummings & Lockwood LLC. All rights reserved.

This document is intended to convey to you the principal characteristics involved with Relocating to Florida as they apply to common situations. For this reason, we have deliberately simplified technical aspects of the law in the interest of clear communication. Under no circumstances should you or your other advisors rely solely on the contents of this document for technical advice; nor should you reach any decisions with respect to this topic without further discussion and consultation with a Cummings & Lockwood attorney.

In accordance with IRS Circular 230, we are required to disclose that: (i) this memorandum was not intended or written by us to be used, and it cannot be used by any taxpayer, for the purpose of avoiding penalties that may be imposed on the taxpayer; (ii) this memorandum was written to support the promotion or marketing of the transaction(s) or matter(s) addressed by the memorandum; and (iii) each taxpayer should seek advice on his or her particular circumstances from an independent tax advisor.



RELOCATING TO FLORIDA