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ESTABLISHING FLORIDA RESIDENCY

Taking Advantage of Sunshine State Law

It is no coincidence that many people choose to locate their business, gain employment, and eventually retire in Florida. On top of its sunny weather and beaches, Florida law offers significant asset protection for its residents while being one of the most tax-friendly states in the country.

Tax Benefits and Asset Protection

- **No State Income Tax**. Florida is one of seven states that have no state income tax, which is why many high-income earners relocate to Florida. This also means no state income tax on Social Security benefits, pensions, IRAs, 401Ks, and other retirement income.
- **No Estate Tax or Inheritance Tax**. Upon death, a Florida resident's estate will not be subject to estate tax at the state level. On the other hand, states such as New York, Massachusetts, and Illinois - all with top estate tax rates of 16% - can take a sizeable portion of an estate away from heirs.
- **Property Tax Benefits**. For homestead residences, Florida grants an exemption for the first $50K of the home's value for property tax purposes. Florida also caps increases in annual property tax assessments on homestead residences at 3% per year, keeping the taxable value artificially low.
- **Homestead Protection**. The Florida Constitution generally exempts homestead property from the reach of creditors (with few exceptions), meaning a creditor cannot force the sale of one's homestead to satisfy a judgment. Unlike some states that limit homestead protection to a certain dollar amount, there is no monetary cap in Florida.
- **Other Asset Protection**. Florida recognizes "tenancy-by-the entirety" ownership, which provides assets owned by a married couple with protection creditors who only have a claim against one of them. Florida law provides charging order protection for multi-member LLCs, adding protection from the creditors of the LLC's owners. Florida law protects IRAs, 401Ks and other qualified plans (including inherited accounts) from levy or attachment by creditors. Lastly, Florida law also protects annuity contracts, life insurance proceeds, and the cash surrender value of life insurance policies from attachment by a judgment creditor.

How to Establish Florida Residency

The definition of a Florida resident often depends on the purpose one is trying to accomplish. That being said, to take advantage of Florida's tax benefits and asset protection laws noted above, one must be able to prove by clear and convincing evidence that they intend to make Florida their permanent residence. To help establish the intent necessary, an individual should take the following steps:

1. **File a Florida Declaration of Domicile**. This is a is a sworn statement recorded in the public records that states a person's intention to make Florida their permanent residence.
2. **Apply for a Florida Driver's License and Register a Vehicle**.
3. **Register to Vote in Florida**. Taking it one step further and actually voting in the next election will also help.
4. **Buy or Lease Real Property**. Establish your Florida mailing address.
5. **Notify Tax Officials**. List your Florida address as your residence on your federal return.
6. **Apply for a Homestead Exemption**.
7. **Open a Local Bank Account**. You should also close bank accounts in the state you left.
8. **Update Your Estate Plan**. Florida law will govern your estate if you establish residency, so be sure to contact a Florida licensed attorney to prepare your plan.
9. **Live in Florida**. This may be obvious, but you should spend as much time as possible in Florida, preferably at least six months and a day per year.
10. **Conduct Business**. Ideally, one should be employed or conduct all business in Florida.