

Residence & Home of Record

Home of record. Your home of record is the state from which you entered the military.

Residence. Your residence is the place where you presently live. You are currently a resident of Germany. However, unless you intend to remain in Germany and make it your permanent home, it is not your domicile.

Domicile. Your domicile is your permanent residence. It is the place to which, even if you were temporarily absent, you intend to return. This could be your home of record, but is not necessarily so. Once you establish a domicile, that place will remain your domicile until you move to a different location with the intent of making that location the permanent residence. You may have many residences but only one domicile. A spouse does not automatically acquire the residence of the other spouse, although they are often the same.

Residency for service members

The Servicemembers Civil Relief Act provides that a soldier retains the residence he or she had immediately before entering the service. However, the law recognizes that you can change your residence at any time.

Changing your domicile. Changing your domicile requires:

1. Physical presence in the state where you want to become a legal resident
2. An intent to remain in the new state

Showing intent. It is important to take positive steps to show your intent to remain in a state. Actions that indicate intent may include:

Acts that show an intent to remain are not limited to these seven. The more official contacts you have with a state, the more likely you will be considered a domiciliary, or permanent resident of that state.

- 1 Register to vote and vote in local elections
- 2 Register and pay state income taxes
- 3 Register a motor vehicle and obtain a driver's license
- 4 Ownership of real estate and payment of property taxes
- 5 Maintain local bank accounts
- 6 Transact business in the new state
- 7 Membership in local organizations

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The importance of establishing a domicile, or permanent residence. The laws of your state of permanent residence determine many important matters. These include, but are not limited to:

- ① State income tax liability
- ② Inheritance and probate of your will
- ③ Who may act as guardian of your minor children
- ④ Right to vote
- ⑤ Right to hold public office
- ⑥ In-state college tuition
- ⑦ Separation, divorce and spousal support
- ⑧ Child custody and support
- ⑨ Real estate and personal property rights and tax liability
- ⑩ Eligibility for public aid

Establishing a domicile
Paying state income tax and voting are usually the strongest proof of one's intent to remain in a particular state for the purpose of making it one's domicile.
As a servicemember stationed overseas, you may participate in the voting process of the home state by registering to vote by absentee ballot.

Domicile and state income tax. Your domicile establishes your liability for state income taxes. Many states do not have state income taxes or do not tax military income. For example, Florida does not tax state income and Pennsylvania does not tax military income for legal residents of that state. Failure to keep significant ties with one state may result in a second state attempting to collect taxes on your military income.

You can declare or change your state income tax withholding by completing DD Form 2058, "State of Legal Residence Certificate," and submitting it to the finance office for processing. Your state income tax withholding will then be sent to your new state.

It is fraud to change your residence for tax purposes unless you satisfy the residence requirements listed in DD Form 2058, paragraph 2. Any Soldier who fraudulently changes his or her residence could face substantial tax liability and criminal prosecution.