



A Warning to Hoosiers on the Move: It May Be Difficult to Establish a Change in Domicile



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The Indiana Department of Revenue (“Department”) recently issued several Letters of Findings pertaining to taxpayer residence and domicile. The facts and circumstances of each case were crucial to the Department’s determination as to whether the taxpayer was an Indiana resident and should be taxed as such.

In Letter of Findings No. 01-20160267 (Sept. 28, 2016), the Department determined that a taxpayer had established a change in domicile after moving to Florida and was improperly assessed Indiana income tax. Upon moving to Florida, the taxpayer requested the removal of the homestead exemption on his Indiana property, obtained a Florida driver’s license, and moved his bank account to a Florida bank. He also registered his vehicles in Florida and bought a home there. The taxpayer did not spend more than 183 days in Indiana and only visited the state during the holidays. The Department found that his actions sufficiently established that he intended to change his domicile to Florida.

In another Letter of Findings, No. 01-20160090 (Sept. 28, 2016), the Department found that the taxpayer provided enough documentation to show that she had changed her domicile from Indiana to Illinois and thus did not owe Indiana tax. The taxpayer provided documents to show that she moved to Illinois to start a dental practice, that she had obtained an Illinois professional license, leased an Illinois apartment, got married in Illinois, obtained an Illinois driver’s license, and registered a car in Illinois. In addition, she had no Indiana source income. Therefore, the Department found that she was not domiciled in Indiana and did not have to file Indiana tax returns for the years at issue.

In Letter of Findings No. 01-20160180 (Sept. 28, 2016), the Department also determined that the taxpayers therein had established a change in domicile from Indiana to Florida. The Department had begun looking into the taxpayers’ residency because of a refiled homestead exemption on their Indiana property. However, the taxpayers provided sufficient documentation to show that the exemption was removed from their property and that the homestead exemption had been erroneously



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reestablished. The taxpayers were also able to provide documents showing an intent to change their domicile to Florida, including driver's licenses, voter registrations, Florida club memberships, and a Florida declaration of domicile. They also did not spend more than 183 days in Indiana. Therefore, the Department determined they had moved their domicile to Florida and did not owe Indiana taxes.

Conversely, in Letter of Findings No. 01-20160042 (Sept. 28, 2016), the Department found that the taxpayers did *not* establish a change in domicile and were therefore properly subject to Indiana income tax. The taxpayers claimed a homestead deduction for a home in Indiana despite their claim that they did not reside in the state. Although the taxpayers claimed they had claimed the deduction in error, they were unable to provide any evidence that they attempted to correct the error. In addition, the taxpayers were earning Indiana source income from the house because they rented it out. The Department therefore found that they were Indiana domiciliaries and had to file an Indiana tax return.

These cases indicate the importance of taking the right steps when planning a change in domicile. The individual facts and circumstances of each case are of utmost importance, and individuals who wish to move outside of Indiana and change domicile should be circumspect in documenting that intent. Taxpayers moving out of the Hoosier state and who no longer wish to pay Indiana income taxes should obtain driver's licenses, register to vote, and register their vehicles in their new state. They can also establish new health care relationships (*i.e.*, obtain new doctors and dentists) in the new state, join a place of worship there, and move valuable personal items to their new home. It would also appear from these cases that the Indiana Department of Revenue may decide residency based on whether the taxpayer claims the homestead exemption on Indiana property. Even if a taxpayer retains property in Indiana, he or she should cease to claim the homestead exemption on that property if he or she no longer wishes to be subject to Indiana income tax. In addition, taxpayers who may travel to Indiana from time to time should be careful to document the days in which they are present in the state, as if it is more than 183 days, the Department may consider them to be domiciled there. Finally, those who are moving to Florida may want to obtain a Declaration of Domicile available under Section 22.17 of the Florida Statutes. This can evidence affirmative intent to call Florida home and abandon Indiana as a domicile.

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