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What Washington Snowbirds Should Know About Taxes

MAR 25, 2019

By [Alison J. Warden](#) and [Jenna Ichikawa](#) | Related Practice: [Estate Planning & Administration](#)

After this season's harsh February, certain Washington residents may be considering part-time residency in sunnier locales next winter. In addition to improved weather, the possibility of changing domicile to avoid Washington estate tax may make a change of scenery all the more appealing. But before the issue of estate tax becomes a deal-maker (or breaker) in the decision, it is important to consider the complete tax picture, including whether a move will constitute a change of domicile and whether it will improve, or impair, your tax situation overall. Below are some tips on what to think about, from a tax perspective, when considering a move.

What is the estate tax rate in Washington, and when does it apply?

Washington has no income tax, but it imposes an estate tax of 10%-20% on estates of deceased Washington-domiciled residents, to the extent an estate exceeds the \$2.193



similarly applies against the estate of any deceased person, regardless of domicile, who dies while owning property physically located in Washington. For such estates, the tax is proportionally reduced to capture only that part of the estate that is physically located in Washington. Thus, if you have an estate above the exemption, establishing domicile in a state that does not have estate tax, and reducing your Washington holdings, can significantly benefit your heirs.



What are other potential tax benefits or drawbacks to moving to a new state?

Depending on your personal tax situation, a new state's income tax laws may be of more concern than Washington estate tax. Income tax liability may be based on "residency" rather than "domicile" - two related but different terms defined under a dizzying and sometimes conflicting array of laws across multiple states. Since Washington has no income tax, establishing even a part-time residency in a state with an income tax can yield an unpleasant result.

For example, California has no estate tax but imposes an income tax based on "residency" with the highest bracket just above 13%. On one occasion, California tax authorities reportedly claimed that a frequent visitor to the state was a "resident" of California subject to California income tax on her worldwide income primarily because she had a subscription to the Los Angeles Times on "vacation hold" for several months. California reportedly lost that matter on appeal, but the incident demonstrates the state's expansive view of taxation. Part-time residents may be caught in a double-tax trap and be deemed a California "resident" for income tax but "domiciled" in Washington for estate tax purposes.



Also when contemplating a move it is important to keep in mind that Washington is not the only state with an estate tax. Specifically, 12 other states and the District of Columbia currently impose a state estate tax. Of the Western states, Oregon and Hawaii have an income tax and an estate tax. Arizona, California, Colorado, Idaho, Montana, and Utah have an income tax but no estate tax. Nationwide, the states of Alaska, Nevada, South Dakota, Texas, Wyoming and Florida have no income tax or estate tax.

What is “domicile,” and how is it established?

Establishing domicile (i.e., your permanent home) in a state will help ensure you will be taxed under that state’s laws. Unlike residency, which can be considered established in multiple states, only one state or location can be your domicile. Keep in mind that moving domicile will not result in complete relief from Washington estate tax liability if any portion of your property remains located in the state. There are no bright-line rules for establishing domicile, and courts generally look at the totality of circumstances. Some of the factors considered are:

- Location of primary residence
- Other property location and ownership
- Time spent in the state during the year
- Voting place
- Place of employment in the 5 years before death
- Vehicle registration
- Business and social ties

Changing domicile can result in significant tax relief for some taxpayers, but thoughtful planning is an important part of the process. For questions about the effect of domicile in respect to your estate or tax planning, please contact a member of the Stokes Lawrence [Estate Planning & Administration practice](#).



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