

## Changing Your State of Legal Residence

*As a service to our legal assistance clients, we have prepared this handout with frequently asked questions on issues involving state of residence, domicile, home of record, etc. It is, of course, very general in nature since no handout can answer all your specific questions. Read over these questions and answers carefully in connection with your visit to our legal assistance attorneys so that you may have the fullest information available to help you with your legal issues.*

### What is a domicile?

Each person has only one domicile, or state of legal residence. Both terms mean the same thing, the state where your permanent home is located. Most people acquire a domicile at birth, namely the state where their parents are domiciled. No matter where an individual may go temporarily, and "temporarily" can include a thirty-year military career, **domicile almost never changes, unless two requirements are met: physical presence and mental intent.**

### How do I change my domicile?

To acquire a new domicile, the individual normally must be **physically present** in the new state and have the simultaneous **intent** to make the new state his permanent home and to abandon the legal residence in the old state. Buying a house in a new state does not meet the two requirements and is not sufficient to change domicile, nor is being assigned on orders, registering to vote, getting married, having bank accounts, working, registering a car, or having a driver's license in that state. All of those things may help *prove* your intent to acquire legal residency, but none of them are necessarily conclusive.

### Can I change my domicile for tax purposes?

You cannot change your domicile just for "tax purposes." You must meet the physical presence and mental intent test discussed above. Filing DD Form 2058, State of Legal Residence Certificate, doesn't change your domicile either. That form should be filed to adjust your state income tax withholding after the change has already occurred; merely filing the form has no effect whatsoever in actually making the change. Moreover, filing the form improperly may get you in serious trouble. Military personnel have been court-martialed, tried in civilian courts, and given huge fines for wrongfully claiming legal residency, committing tax evasion, and other misconduct related to residency issues.

### My daughter is about to go to college, so how do I change my domicile so she can get in-state tuition?

## **The Netherlands Law Center**

Becoming a legal resident does not necessarily qualify someone for in-state tuition rates. Residency status is usually just one of a long list of factors that schools may consider. It is up to the school to determine if you meet its criteria for in-state tuition.

### **Can I change my domicile while I'm stationed in Europe?**

Changing domicile while overseas is usually impossible, since the physical presence test can't be met. In some cases, a spouse may acquire the domicile for the other upon marriage, even if they are temporarily living somewhere else at the time of the marriage. However, this is a somewhat aggressive position to take, and it may not stand up in court.

### **IF I HAVE OTHER QUESTIONS, WHAT SHOULD I DO?**

See a legal assistance attorney. The Netherlands Law Center stands ready, willing and able to help you in these matters. Contact our office at DSN 360-7688 or Commerical 046-443-7688. When you go to your appointment with the legal assistance attorney, ensure you bring a copy of all documents or court papers that relate to your legal issue.