Why Consider Living in Florida?

The Sunshine State offers a host of financial and tax benefits for its residents

Key Points

- Florida residents likely enjoy significantly reduced tax obligations compared to many other states
- Florida does not impose a personal income tax, an inheritance tax, a gift tax, or an intangible personal property tax
- The more ties you have to Florida, the more likely your Florida domicile will be respected

While Florida is commonly known for its year-round sunshine and beautiful sandy beaches, it's also home to many tax and financial advantages. Generally considered a low-tax state, Florida residents likely enjoy significantly reduced tax obligations compared to those of many other states. Florida does not impose a personal income tax, an inheritance tax, a gift tax, or an intangible personal property tax. Florida tax laws are governed under the Florida Constitution and would require a super-majority to evoke change.

TAX BENEFITS

No state income tax

The assessment of an individual state income tax is prohibited by the Florida Constitution, so residents are free from state income tax liabilities. However, beware of the "snowbird tax" if you own property in another state as well. States such as New York, for example, consider you a resident for state income tax purposes if you still have a home in the state and you spend approximately 183 days, or the majority of your time, in New York. In addition, you may be subject to a personal income tax in New York for any taxable income derived from or connected with sources in that state, such as rental income from a New York-based property. Other states are becoming more aggressive and are mirroring New York's tax revenue department.

No state estate taxes

While a Florida estate tax return must be submitted to the state of Florida for estates where a federal estate tax return is required, there is no separate Florida estate tax due. In contrast, many of the Northeastern states have "de-coupled" from the federal estate tax, and still impose a state estate tax on much lower asset values. For example, even though the federal government charges an estate tax on assets valued over the exemption amount of $11,400,000 per person (2019), the state of Massachusetts charges on assets valued over $1,000,000.00. Additionally, Florida does not assess an inheritance tax, which some states impose.

Homestead advantage

Every Florida resident who owns and resides on real property in Florida on January 1 and makes the property his or her permanent residence is eligible to receive a homestead exemption up to $50,000. As an additional benefit, the assessed value of the property for property tax purposes cannot rise more than 3% in any given year. If the property's market value increases more than its assessed value, you do not pay property tax on that increased equity in the property.

CREDITOR PROTECTION

Florida's Constitution also provides protection for homeowners through its Homestead Law. This law protects Florida residents who own "homestead" property from losing that property to a creditor or any lien holder. Homestead property is defined as real property that an individual owns and lives in and that is considered his or her primary residence. Vacation property and second homes are not considered homestead property. In

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essence, a Florida resident cannot lose his or her home because of unpaid debts, regardless of the market value of the home.

The only exception to this rule is if the creditor has provided financing for the property in the form of a mortgage, equity line, or other type of home loan; in that case the creditor can foreclose your interests in the home in order to receive payment for the loan.

In addition to protecting your home, Florida also offers additional asset protection opportunities for the following: assets held by husband and wife as tenants by the entireties; qualified deferred compensation plans, which include IRAs and 529 college plans; pension and profit sharing plans; life insurance proceeds; and annuities. All of these assets cannot be touched by claims of creditors in Florida, affording residents' protection from frivolous lawsuits, accidents, and other financial tragedies. Check with your attorney or accountant for other asset protection opportunities.

CHANGING YOUR DOMICILE

Many states with high personal income taxes may be aggressive in seeking to challenge your claim of permanent Florida residency. The more ties you have to Florida, the more likely your Florida domicile will be respected.

Some of the general steps that a state considers when determining residency include, but are not limited to:

- Filing a Declaration of Domicile to establish residency
- Obtaining a driver's license
- Registering your automobiles and obtaining license plates
- Registering to vote and voting in the state
- Updating your will, trust, power of attorney, and other legal documents to conform with state law and executing those documents in the state with a state-licensed attorney
- Listing the state as your residence on all deeds and other legal documents
- Establishing bank and investment accounts in the state and transferring your assets to those accounts
- Opening and maintaining a safe deposit box in the state
- Notifying Social Security, Medicare, etc. of your address change
- Having all mail delivered to your new address

Prior to beginning the process of changing your residency, you should discuss the pros and cons with your attorney and accountant in context of your overall financial, tax, and estate planning situation.

Changing your permanent state of domicile is an important decision and should be carefully considered in order to make an informed decision.

