

CHANGE OF DOMICILE
TO FLORIDA

MERCER COUNTY ESTATE PLANNING COUNCIL

October 22, 2008

ALVIN C. MARTIN
DRINKER BIDDLE & REATH
500 CAMPUS DRIVE
FLORHAM PARK, NJ 07932
973-549-7240

Law Offices

500 Campus Drive
Florham Park, NJ
07932-1047

BIO OF ALVIN C. MARTIN

(973) 360-1100
(973) 360-9831 fax
www.drinkerbiddle.com

CALIFORNIA
DELAWARE
ILLINOIS
NEW JERSEY
NEW YORK
PENNSYLVANIA
WASHINGTON D.C.
WISCONSIN

Alvin C. Martin, Of Counsel to the law firm of Drinker Biddle & Reath LLP, concentrates his practice in income tax and estate planning, and federal and state tax litigation, including change of domicile planning, New York domicile audits and hearings.

Alvin, who was formerly an Adjunct Professor of Taxation at New York University and an IRS trial attorney, has lectured at numerous tax and estate planning seminars, including seminars sponsored by the New York University Annual Institute on Federal Taxation, New York University Institute on Federal Taxation-Trusts and Estates Program, the New Jersey Bar Association Section of Taxation, the New Jersey Institute for Continuing Legal Education, the New Jersey chapter of the American College of Trust and Estate Counsel ("ACTEC"), estate planning councils, and tax conferences of CPA organizations.

He is the co-author of *New Jersey Estate Planning, Will Drafting and Estate Administration* (LEXIS Law Publishing); Chapter 222, "Irrevocable Inter Vivos Trusts." *New Jersey Transaction Guide* (Matthew Bender); and "The Receipt of Money or Other Property By One or More Reorganization Sellers," 40th New York University Institute on Federal Taxation, Chapter 51 (1982). He was a member of the advisory board of RIA's Wealth Transfer Planning and a former editor of the *Journal of Taxation*;

Alvin graduated from Baruch College (formerly City College) of the City University of New York (B.B.A., *cum laude*, 1954), Harvard Law School (J.D., 1957), and New York University School of Law (LL.M. in Taxation, 1963). He is licensed to practice in the states of New Jersey, Florida and New York and is a fellow of ACTEC, an honorary organization whose fellows include leading estate planning attorneys. He is listed in *The Best Lawyers in America*, *New Jersey Super Lawyers*, *Who's Who in America* and *Who's Who in American Law*. He was honored as the recipient of the 2004 Outstanding Alumni Achievement Award from Baruch College.

Alvin was a partner of the firm from 1977 to 1988 when he became Of Counsel, and prior thereto he was Executive Vice-President and a director of Vornado, Inc. (NYSE), now Vornado Realty Trust.

DOMICILE PLANNING

I. INCOME TAX - INTRODUCTION AND OVERVIEW

A substantial number of individuals from northern states have migrated to Florida during the past 15 years. In addition, others have moved to the sunbelt states of Arizona, California, the Carolinas, Nevada and Texas. As the population continues to age and the baby boomers begin to retire, it is expected that the migration to the sunbelt states will accelerate. With these moves, many people have changed their domicile. Some, however, who retained ties to their original states by maintaining homes and remaining active in business or community affairs, are finding that state tax officials are challenging their change of domicile. The states claim that they are still residents for income or estate tax purposes since they have not abandoned their original domicile.

A. New Jersey Gross Income Tax

The personal income tax is imposed on the New Jersey gross income of every resident individual, estate or trust.¹ Non-residents are taxed on income derived from sources within New Jersey.

A resident taxpayer is defined as an individual who:

- (a) Is domiciled in New Jersey, unless he maintains no permanent place of abode in New Jersey, maintains a permanent place of abode elsewhere, and spends in the aggregate no more than 30 days of the taxable year in New Jersey; or
- (b) Is not domiciled in New Jersey but maintains a permanent place of abode in New Jersey and spends in the aggregate more than 183 days of the taxable year in New Jersey, unless the individual is in the U.S. Armed Forces.

A non-resident taxpayer is one who is not a resident.

For purpose of the above, domicile is any place an individual regards as his or her permanent home, that is, the place to which the taxpayer intends to return after a period of absence. Physical presence and intent to remain indefinitely in Florida established change of domicile. Wolff v. Taxation Div. Director, 9 N.J. Tax 11 (Tax Ct.

¹ A resident trust is not subject to the New Jersey Gross Income Tax ("Tax") if its assets are located outside New Jersey, it has Trustees who are not located in New Jersey, and it has no New Jersey source income. A resident trust that is not subject to the Tax is required to file a return stating the basis of its position of non-taxability, and there is a penalty for failure to file such a return.

1986). See pages 4 and 5 of the instructions to 2007 Form NJ-1040 NR attached hereto as Exhibit A for definitions of domicile and residency status.

B. New York Income Tax

See the definition of domicile and the definition of residence on page 58 of the instructions to 2007 Form IT-203-1 (non-resident income tax return) attached hereto as Exhibit B.

1. Audit Program

New York State tax officials have collected substantial revenue from their aggressive program begun in 1989 of auditing non-resident returns, particularly those with Florida addresses. The focus, which has been on affluent taxpayers with multiple homes and New York business ties, has changed from formalities to actions and life patterns. The state tax audits are generally triggered by one or more of the following: (a) a change in filing status from resident to non-resident; (b) not filing a state income tax return; (c) more than \$100,000 of federal income over state income; or (d) other leads such as claiming a resident parking or real estate tax exemption or driving with out-of-state license plates.

Attached as Exhibit C is the New York State Tax Department Audit Questionnaire.

2. Non-Resident Income Tax Audit Guidelines Of The New York Department Of Taxation And Finance. Revised May 9, 1994 And Further Revised On September 2, 1997.

(a) The 1994 Revision - Domiciliary Audits

1. The Primary factors that are to be used in determining domicile are:
 - (i) Florida home value and size compared to New York home;
 - (ii) active business involvement in New York compared to business activities in another state;
 - (iii) location of "near and dear" items;
 - (iv) time spent in each state, and

- (v) location of family.

The primary factors are to be analyzed by weighing the New York and non-New York activities with respect to each of the five factors. For example, the Guidelines require a comparison of a New York residence with a non-New York residence as to the home's size, value, use and maintenance.

The "other" factors are to be considered only where the primary factors establish a basis for considering New York as the individual's domicile or where the primary factors are at least equal in weight for New York and another state.

2. Other Factors

The nine "other" factors are:

- (i) active involvement in community, religious, civic or service clubs or fraternal or other not-for-profit organizations;
- (ii) the primary address used on bank statements or other personal correspondence;
- (iii) location of safe deposit boxes;
- (iv) driver's license and vehicle registration;
- (v) voter registration and voting activity;
- (vi) frequency and nature of dealings with doctors, attorneys and other professionals;
- (vii) possession of a New York City Parking Tax exemption;
- (viii) telephone service and activity, and
- (ix) citations in wills or other legal documents.

(b) The 1997 Revision

The State Department of Taxation and Finance revised the guidelines for its auditors to follow in personal income tax domicile examinations. The revised guidelines, issued on September 2, 1997, continue to emphasize the importance of the five "primary" factors in determining an individual's domicile.

The most important change is relegation of the fifth primary factor - location of the individual's family connections - to a lesser status due to recognition that an examination of an individual's family connections is intrusive. Thus, under the revised guidelines, instead of an analysis of all five of the primary factors, an analysis will be made of the first four primary factors, and if that analysis proves inconclusive, only then will an analysis be made of the family-ties factor.

In addition to relegating the fifth primary factor to a lesser status, the revised guidelines change details to be used in analyzing some of the other primary factors. For example, the revised guidelines indicate that it might be appropriate to give different weight to an individual's active business involvement when that involvement primarily occurs on a long-distance basis. The previous version of the guidelines specified that it was virtually irrelevant whether an individual's involvement in a New York business took place from within New York or from afar. The revised guidelines recognize that there can be a difference between an individual's involvement in a New York business from within New York as opposed to his or her involvement from afar. Therefore, the revised guidelines specify that if the other primary factors indicate that an individual is not a domiciliary of New York, the individual should not be treated as a New York domiciliary merely because he or she is involved in a New York business from afar.

Further, in analyzing the location of items "near and dear" to the individual, the revised guidelines recognize the fact that some people have valuable possessions in more than one residence and that it may make more sense to look at items that possess sentimental value. There is also an acknowledgement that some items (e.g., antique furniture) - even if they possess sentimental value - might be more suitably kept in a New York residence than in a house in a warmer climate. Thus, the fact that this type of possession is located in New York should not be given much weight.

3. Statutory Resident Audits For Nondomiciliaries Of New Jersey Or New York.

(a) Statutory Resident For Income Tax Purposes

Note that even if you prove that you have changed your domicile, in many states such as New York, New Jersey, Connecticut, Pennsylvania and Maryland, you can be taxed as a statutory resident if you (a) retain your home (permanent

place of abode) and (b) are physically present in the state for more than 183 days in the year.

(b) Permanent place of abode. New York informal audit guidelines require abode to be maintained for more than 11 months of the year in order to satisfy substantial party of the year test. Occasional non-recurring lease for a 2-month period may avoid a permanent place of abode for the year involved.

(c) Presence in New York or New Jersey for more than 183 days. Need to maintain records to prove days; transitory New York day; part of a day is a day; and hospitalized days - Stranahan v. State Tax Commission, 68 A.D.2d 250, 416 N.Y.S. 2d 836 (1979).

(d) A New Jersey domiciliary who works in New York and buys a summer home in New York in January 2008 becomes a New York statutory resident, and thereby theoretically subject to income tax in both New Jersey and New York on investment income, including capital gains, without an offselling credit since the investment income is not sourced in New York such as his compensation income.

4. Special Rules When Change Of Residency Occurs

(a) Accrual Rules for Year of Change

1. Installment sales- taxation accelerated Bond or other security may be posted as an alternative. See N.Y. Publication 210.
2. (i) Timing the Domicile Change.
 - (ii) Planning regarding sale of business or real estate.
 - (iii) Sell stock or a partnership interest after change of domicile, Loehs, 1992-3 N.Y.T.C.J-400 (although the sale of New York realty is taxable, a nonresident's sale of a partnership interest or stock in an entity that owns realty is not). See also N.Y. TSB M-92 – (2) I (1992). See also N.Y. Advisory Opinion TSB-A (07) (1)(I) (2007). New Jersey follows the same rule as New York. See New Jersey Division of Taxation Bulletin GIT-9P (Revised 1/07) entitled Tax Topic-Income from Partnership.
 - (iv) Transfer residence in former state (NJ or NY) to an LLC and pay rent for perhaps a 2-year period prior to a sale

of the LLC interest by a nonresident who has been a resident of Florida for over 15 years.

See letter to clients regarding sale of LLC interests in a residence LLC by nonresidents of New Jersey attached as Exhibit D.

Home?

(b) Will New York Tax Nonresidents Working In Florida Or At

1. Independent contractor vs. employee. Consulting agreement not requiring any services in New York.
2. Convenience of employee vs. condition of employment. See Kartiganer v. Koenig, *supra*, 599 N.Y.S. 2d 312.
3. All of employee's services outside New York. Linsley v. Gallman, 38 A.2d 367 (1972).
4. Employee of Florida consulting corporation or of Florida office of New York Company. Compare Kartiganer, *supra* with Matter of Ascheim, CCH N.Y. Tax Reports ¶401-603.
5. Professional licenses.

- (c) Gain on a sale of a New York co-op apartment by a nonresident of New York is now subject to New York income tax.

5. Miscellaneous Considerations Involving New York Domicile Audit

(a) New York Income Tax Audit Strategy

- (i) Compromise of tax and interest for a dollar amount allocated solely to income tax in order to aid deductibility.
- (ii) If a taxpayer changed his domicile a number of years ago and has not filed any nonresident New York returns, and change of domicile has not been audited, advise taxpayer to avoid New York source income. The New York source income would require filing a New York non resident return that may trigger an audit of earlier

years, including requirement to move residence in New York for less than 184 days within a year.

(b) Conciliation Conference - appeals from Audit Division determinations are to the Conciliation conference.

(c) Litigation

1. Administrative Law Judge ("ALJ") decisions have no precedential value and cannot be cited in litigation. ALJ decisions can be cited at audit level or at Conciliation conference.

2. The Department's tax attorneys generally do not engage in discovery or independent investigation of the facts. They typically rely on the audit file and cross-examination.

3. Have client present in court to testify - do not present case based on affidavits from the taxpayer.

4. Appeals from ALJ decisions are to Tax Appeals Tribunal, and then to the Appellate Division, 3rd Judicial Department.

6. Suggested Program To Establish Change Of Domicile From Another State To Florida.

(a) Burden of Proof

Whether you have changed your domicile depends on your intentions and an analysis of all the facts and circumstances. A taxpayer has the burden of proving by clear and convincing evidence that he changed his domicile and abandoned his former domicile. A taxpayer will need to maintain records to establish the change of domicile. If there are substantial facts for and against the change of domicile, a taxpayer will lose the case since he will not have met his burden of proof.

In summary, you can change domicile and still retain a residence in the former state provided that you have abandoned most if not all ties to the former state, and you are no longer active in business affairs in the former state. If one retains a residence and remains active in business affairs in former state, one will probably lose a change of domicile case. See sample letter to client regarding domicile advice attached as Exhibit E.

(b) List of Affirmative Steps

The following is a suggested list of steps to take in order to demonstrate an intention to change domicile to another state.

1. (i) Sell or lease residence, if possible, in former state of domicile. CAUTION: Sale to children for 100% purchase money note treated as gift includible in estate under § 2036(a)(1), 1986 I.R.C. See Estate of Lydia G. Maxwell v. Commissioner, 3 F.3d 591 (2d Cir. 1993).
 - (ii) If you retain residence in former state of domicile, examining agents in certain states, such as New York, formerly took the position on audit that you have not abandoned New York as your domicile. The position of the New York State income tax auditors is not the law, and there are court cases to the contrary. Matter of Sutton, D.T.A. No. 802019; and Matter of Burke, D.T.A. 819631. Retention of a residence is now one of the factors in a determination of domicile.
 - (iii) (a) However, if you retain a residence in New York and continue to be actively involved in or perform services with respect to a New York business, there are New York cases that hold that you have not abandoned New York as your domicile. Kartiganer v. Koenig, supra.
 - (b) If you retain a residence in New York and are a passive or inactive investor in a New York business there are New York cases that held under those circumstances, the taxpayer abandoned New York as his domicile and acquired a Florida domicile. Matter of Sutton, supra; and Matter of Burke, supra.
2. If you retain your residence and spend more than 183 days in former state of domicile (e.g., New York or New Jersey), you will be taxed as a resident for income tax

purposes even if you claim to have changed your domicile.

3. Own or lease and occupy a dwelling in Florida and move your paintings, sculpture and jewelry to Florida. Move your furniture, if appropriate, to Florida. Retain moving receipts. Change insurance policies to show Florida as the primary residence.
4. Spend as much time in Florida as is practicable (6 ½ months) and spend more time in Florida than your former state of domicile and everywhere else combined.
5. An individual is required to keep records to substantiate the number of days spent in New York or in New Jersey. Retain airline, telephone and credit card bills and maintain diary to prove presence for each day of the year in the event of an income tax audit.
6.
 - (i) Transact business in Florida and perform services with respect to a business located in Florida. Open an office in Florida, or establish an office in your home. Use business stationery with your Florida address.
 - (ii) Discontinue transacting business in former state of domicile and discontinue performing services in former state of domicile or with respect to a business located in a former state of domicile.
7. File in the office of the Clerk of the Circuit Court of the County of your Florida residence a Declaration of Domicile and Citizenship form indicating change of domicile to Florida. See Form of Declaration of Domicile attached hereto as Exhibit F.
8. Register to vote in Florida and vote in person during elections. Apply for a voter's registration card. See voters registration information attached hereto as Exhibit G. Cancel registration in former state of domicile.

9. Change the registration of your automobile to Florida and pay automobile license fees to Florida. Obtain a Florida driver's license and surrender license in former state of domicile. See automobile registration information attached hereto as Exhibit H.
10. Apply as a Florida resident for Florida homestead exemption from real property taxes prior to March 1, 2009 at your local Property Appraiser's office provided that you were a resident of Florida on January 1, 2008. The homestead exemption will also give you a cap on annual increases in real estate taxes. See homestead information attached hereto as Exhibit I and sample letter to client regarding applying for homestead exemption attached as Exhibit I.
11. Sign a codicil to your Will to recite that you are a resident of Florida and have your Will reviewed by Florida counsel.
12. Sign Florida forms of durable power of attorney, Living Will (Declaration), and Designation of Health Care Surrogate.
13. File Federal income tax returns with appropriate IRS district for a Florida domiciliary. This is currently Atlanta, Georgia 39901.
14. Discontinue filing resident income tax returns in state of former domicile. You may still be required to file a non-resident income tax return in your former state of domicile to report compensation for personal services rendered in the former state of domicile, and rental income from real or personal property located there.
15. Transfer bank accounts and securities to Florida. If accounts are maintained in former domicile, change address of bank and brokerage accounts to show new Florida address.
16. Move safe deposit vault contents to a Florida safe deposit box.

17. Use Florida address in contracts, deeds, passports and all other legal documents.
18. Use Florida address when registering at hotels.
19. Transfer your church or temple membership to Florida.
20. Join Florida clubs. Change status in out-of-state membership clubs from resident to non-resident. Withdraw membership in any club outside Florida where domicile in such state is a prerequisite to holding such membership.
21. Give notification of change of address for all charge accounts, credits cards, magazine subscriptions, Medicare, the Social Security Administration, and for all service providers in former state of domicile, and notify post office in former state of domicile to forward all mail to your new domicile. Have social security checks directly deposited in a Florida bank account.
22. Establish relationships with and visit doctors and dentists in new domicile.
23. Consider purchasing a burial plot in Florida, which would be the ultimate permanent place of abode.
24. Do not retain a New York City Parking Tax Exemption which is issued to residents.
25. In order to minimize the question of domicile from being raised by New York or New Jersey tax authorities at the time of death for inheritance tax or estate tax purposes, consider eliminating the necessity for ancillary probate of your will by transferring individually owned real estate to a revocable trust (avoid N.J./N.Y. probate) or to a 2-member LLC, partnership or to a corporation (avoid N.Y. estate tax). Attached as Exhibit J is material relating to New York Tax Department's position in attempting to disregard the 2 member LLC and tax the real estate owned by the LLC. Also, see Exhibit D, especially the last paragraph regarding LLC formation

and operation. New Jersey does not tax a New Jersey residence owned by a non-resident of New Jersey.

The foregoing list is not intended to be exhaustive since each individual's situation may require additional action.

C. Florida – Advantages of Florida domicile

1. Constitutional prohibition against any personal income tax or estate tax.
2. (a) Annual cap on real estate tax increases of lesser of (a) CPI or (b) 3% is applicable only to Florida domiciliaries.

(b) 2008 law allows portability of up to \$500,000 of the capped benefits upon a purchase of a new home.

D. Federal Tax Aspects of Residence

1. Change of Domicile and Sale of Principal Residence

One should coordinate the change of domicile with the sale of a principal residence. A principal residence used as such for two of the five years preceding the date of the sale can result in up to \$500,000 of the gain to be excluded from income depending on a taxpayer's filing status. See Asher v. Commissioner, TC Memo. 1998-219; and Terry Duane Beall v. Commissioner, TC Memo. 1998-82.

2. Tax Home

Andrews v. Commissioner, 931 F.2d 132 (1st Cir. 1991) (can have only one tax home for purposes of Section 162(a)(2) of the Code - generally, tax home is principal place of business and not principal residence. Tax home has nothing to do with domicile. See Raby, About Tax Turtles and Tax Homes, Tax Notes, p. 1153, June 1, 1998

3. Request Transfer of IRS Income Tax Audit To Another IRS Office where tax return preparer and books and records are located. Such transfers from Florida to New York have been successful in avoiding an income tax audit that otherwise would have taken place.

E. Dual Claims of Domicile

1. It has been said that while one may have more than one residence, one can have only one state of domicile. This is not necessarily true as more than

one state can claim that you are a domiciliary, and thus subject you to multiple state income or estate taxation. For example, Mr. Dorrance, a Campbell Soup heir, was held to be domiciled in New Jersey and Pennsylvania by the courts of each state. In re Dorrance's Estate, 309 Pa. 151, cert. denied, 298 U.S. 678 (1936); reh'g. denied 298 U.S. 692 (1936). The Supreme Court of the United States said in Texas v. Florida, 306 U.S. 398 (1939) that it is not unconstitutional for more than one state to claim and find domicile. Biederman v. Cheatham, 161 So.2d 538 (Fla. 2d DCA 1964), cert. den. 168 So.2d 146 (Florida and Michigan claimed Biederman as a domiciliary).

2. Dual claims of domicile involving a northern state such as New York or Connecticut and Florida have resulted in the estate paying more than the maximum state death credit rate of 16% to both states in compromise of the matter. Dual claims were made where the clients actions were ambiguous with ties to both states. The elimination of the state death tax credit has lessened the tax impact of dual domicile where Florida is one of the involved states since Florida does not have any state estate tax.

3. NESTOA AGREEMENT- October 1, 1996 North Eastern State Tax Officials Association (NESTOA) Agreement concerning the determination of an individual's domicile, and the multiple taxation of income that can result from conflicting determination by the member states.

F. CHANGE OF DOMICILE GUIDE

1. If you continue to live in New Jersey during the summer months, have you effectively changed your domicile?
2. What steps should you take to change your domicile?
3. How much in New Jersey estate taxes would you save if you change your domicile?
4. How much in state income taxes would you save if you change your domicile?
5. How much time must you spend in Florida?
6. How should you time your domicile change?
7. What can you expect to happen if you become the target of a New York or New Jersey domicile audit?
8. How can you benefit from the Florida Homestead Law and the 3% cap on assessment increases?
9. Can one spouse be a New Jersey resident and the other a Floridian?

G. DING TRUSTS - Delaware Incomplete Non-Grantor Trusts have been used by New Jersey and New York residents to avoid state income tax on investment income, including capital gains. Certain issues in DING trusts are under review and reconsideration by the IRS.

II. DOMICILE FOR PURPOSES OF THE DECEDENT'S STATE ESTATE TAX LIABILITY

A. New Jersey Domicile

1. Cases

It has been held that the Full Faith and Credit Clause of the United States Constitution does not require New Jersey to honor the findings on domicile of the courts of another State.²

The decedent's residence can have significant tax consequences, since it determines both the extent of property subject to taxation and the procedure for filing the Inheritance Tax return. See N.J.A.C. 18:26-5.2, 18:26-9-5.

Neither the statute nor the code of regulations defines "residence." But see N.J.A.C. 18:26-11.1(b)2, which lists indicia of residence and suggests, but does not explicitly require, that abandonment of New Jersey and intention not to return could be relied upon to establish non-residence for purposes of waiver.

The question of what constitutes domicile, for Inheritance Tax purposes, has been reviewed in two landmark cases, Lyon v. Glaser, 60 N.J. 259 (1972) and In re Dorrance, 115 N.J. Eq. 268 (Prerog. 1934), aff'd sub. nom. Dorrance v. Thayer-Martin, 13 N.J. Misc. 168 (Sup. Ct. 1935), aff'd 116 N.J.L. 362 (E. & A. 1936).

The following guidelines emerge from both cases to help determine the question of domicile:

The State must establish domicile by a preponderance of the credible evidence. See Lyon v. Glaser, 60 N.J. 259 (1972). The establishment of a decedent's initial domicile in New Jersey creates a presumption of continued domicile in this State and places the burden on the estate to go forward with evidence to rebut the presumption. *Id.* At 277. If the estate presents prima facie proof of intention to acquire a new domicile, then the burden of persuasion continues with the State (i.e., the party asserting that domicile remained in its original place). *Id.* At 277-278.

The determination of domicile involves a review of many factors. The critical issue is intention. A person's domicile is that place he considers "home".³ Domicile

² See In re Swertlow, 168 N.J. Super. 89, 95, 401 A.2d 1096 (App. Div. 1979).

³ See Nevin v. Thayer, 307 U.S. 616, 59 S.Ct. 1046, 831 L.Ed. 1497 (1938).

may be acquired or changed "when there is a concurrence of certain elements; i.e., an actual and physical taking up of an abode in a particular State, accompanied by an intention to make his home there permanently or at least indefinitely and to abandon his old domicile."⁴

A finding of intent assumes that the decedent was mentally capable of forming an intent. However, domicile can be changed by operation of law when a decedent is shown to have been incompetent when moving from one State to another. In In re Estate of Gillmore,⁵ the Appellate Division reviewed all of the facts and determined that a decedent subject to guardianship was domiciled in New Jersey because all of decedent's contacts were with New Jersey; her guardian appointed by a New Jersey court lived in New Jersey, her New Jersey address was used for all purposes, and she had no permanent residence elsewhere. The court also noted that New Jersey had the most substantial interest in her welfare because of the earlier incompetency proceeding.

See also Matter of Unanue, 255 N.J. Super. 362, 374-389 (Law Div. 1991), for a review of the New Jersey law of domicile.

Domicile, then, may be established by birth, choice, or by operation of law and, although theoretically there is but one true domicile, it is always possible that the courts or taxing authorities of different states will look at the same facts and reach different conclusions, with the result that a decedent is taxed as a domiciliary of a number of states. In cases where a reasonable doubt exists as to domicile, the Transfer Inheritance Tax law permits the Bureau to enter into a compromise agreement with the taxing authorities of other states claiming domicile, settling the taxes for all states involved. N.J.S.A. 54:38A-1.

B. New York

1. Definition of Domicile

Neither New York tax law, nor regulations, specifically define resident and nonresident for estate tax purposes. However, resident is synonymous with domicile by judicial interpretation. See, for example, Matter of Newcomb, 192 N.Y. 238 (1908).

Your domicile is the place you consider to be your permanent home. It is the place to which you intend to return whenever you are away. Domicile is where you have the most meaningful contacts. Your domicile remains the same until you abandon it and move to a new location with the intention of making the new location your

⁴ Citizen's Bank & Trust Co. v. Glaser, 70 N.J. 72, 81, 357 A.2d 753 (1976).

⁵ Citizens Bank & Trust Co. v. Glaser, 70 N.J. 72, 81, 357 A.2d 753 (1976); Lyon v. Glaser, 60 N.J. 259, 277, 288 A.2d 12 (1972).

fixed and permanent home. Note that an individual's motive for changing domicile is irrelevant. A tax-motivated move is not prejudicial. However, intent to change domicile must still be established. Matter of Newcomb, *supra*.

"Domicile may be changed by any person of full age and sound mind, who is free from restraint (Matter of Newcomb, 192 NY 238; Matter of Withorne, 29 Misc. 2d 27) and the change can be effected by an actual change of residence coupled with an **intention** to abandon the former domicile and acquire a new one (20 NYCRR 102.2(d) (2); Matter of Rubin, 280 App Div 348, aft 305 NY 288; Matter of Johnson, 259 App Div. 290; Aetna Natl. Bank v. Kramer, 142 App Div 444; Matter of Katz, 135 Misc. 861).

Intention is an essential factor in effecting a change of domicile (Matter of Newcomb, *supra*, at 250-51; Dupuy v. Wutz, 53 NY 556; Minsky v. Tully, 78 AD 2d 955; Matter of Shapiro, 36 Misc. 2d 271, aff'd 18 AD 2d 837; Matter of Ratkowsky v. Browne; 267 App Div 643; Matter of Easer, 38 Misc. 2d 963) and is to be determined by the conduct of the person and all of the surrounding circumstances (Matter of Ferris, 286 App Div 631; Altimari v. Melsser, 45 Misc 2d 1008; Matter of Esser, *supra*; Matter of Hoff, 178 Misc 515).

"Such **intention** may be proven by acts and declarations (Dupuy v. Wutz, *supra*): facts are more important than declarations (Matter of Shindell, 55 NY 2d 655; Matter of Trowbridge, 266 NY 283; Matter of Johnston, 281 NYS 299) and written declarations are more reliable than oral (Matter of Wendel, 144 Misc 467); declarations are not to be discarded as self-serving unless they are made with intent to deceive or circumvent the law (Matter of Newcomb, *supra*, at 252).

Personal representative must determine state of domicile in order to know where to pay state death taxes.

2. Property subject to Estate Taxation

(a) Intangibles such as bank accounts and securities (including stock in a co-op apartment) are generally taxed in state of domicile.

(b) Realty and tangible personal property taxed in situs state.

3. New York Estate Domicile Affidavit- See Exhibit C

4. Planning To Avoid New York Estate Tax Liability And To Avoid Inquiry Into Domicile Question.

- (a) Avoid ancillary probate of will and change real estate interests to intangible personal property, partnership interest or stock in a corporation. However, buyer or co-op counsel may require tax waiver, and possibly ancillary probate of will in connection with stock of a co-op apartment.

C. FLORIDA- Domicile

Domicile is defined under Florida law as "[a] person's usual place of dwelling; synonymous with 'residence'." F.S. Sections 731.201(11) and 198.015.

"The rule is well settled that the terms residence, residing or equivalent terms when used in statutes or actions . . . are used in the sense of legal residence; that is to say the place of domicile or permanent abode as distinguished from temporary residence.

"A person may have several temporary local residences but can have only one legal residence. A legal residence, or domicile, is the place where a person has fixed an abode with, the present intention of making it their permanent home." Walker v. Harris, 398 So.2d 955 (4th DCA, 1981).

"Where a good faith **intention** is coupled with an actual removal evidenced by positive overt acts, then the change of residence is accomplished and becomes effective. This is so because legal residence consists of the concurrence of both fact and **intention**. The bona fides of the intention is a highly significant factor.

"Furthermore, our courts have consistently recognized that an individual's **intent** is a subjective factor and, therefore, the best proof of one's domicile is where he or she says it is. This is not to suggest that proof of legal residence cannot be measured by objective factors, but in analyzing proof of intent, a person's declaration is especially significant and entitled to great weight." Walker v. Harris, (supra). (emphasis added).

D. Domicile decision affects the following:

A. Disposition of property

1. Certain assets cannot be taxed by more than one state, for instance, real property and tangible personal property can only be taxed in the jurisdiction of physical situs. (New York Tax Law § 956(a)).

2. Intangible personal property, however, such as cash, bank accounts and securities is taxed in the jurisdiction where the decedent was domiciled at death, giving rise to the potential for multiple state death taxation.

B. Fiduciary appointments

C. Local death taxes

III. ESTATE PLANNING IN FLORIDA AND OTHER FACTORS

1. Choice of fiduciaries in your Will and Trust

a) Appointment of personal representative of your Will is limited to relatives or Florida residents

b) There is no similar limitation on the appointment of a trustee

2. Contestability clause is invalid.

3. Elective share statute is complicated – different treatment for QTIP property and credit shelter trusts.

4. Homestead exemption for revocable trusts and QPRTs. Robbins v. Wellbaum 664 So.2d1 (Fl. 3d DCA 1995) (a term interest in the QPRTs is sufficient to support the homestead tax exemption). Attached as Exhibit K is a revocable trust provision to preserve the homestead tax exemption. See Baskies, Florida Homestead Laws Present Malpractice Traps for the Unwary, Estate Planning Journal, May 2008.

5. Homestead exemption preserved in certain counties by a recorded 99-year lease entered into upon the expiration of the QPRT term. A case is pending in the Key West area. See Franklin and Baugher, Protecting and Preserving the Save Our Home Cap, Florida Bar Journal, October 2003.

6. (a) Florida Trust Code effective July 1, 2007 – For a scrivener's summary, see the written materials in the ABA Audio Program – What every Estate Planning Attorney Should Know about Florida broadcast on November 7, 2006 (Event Code: CET 6AAf)

(b) Trust reformation, modification and decanting.

7. The testamentary aspects of a revocable trust are to be executed with the formalities required by the execution of a Will.

8. Homestead devise restrictions- devise to a credit shelter trust is void.

Reginald died testate in 1979 in Palm Beach County survived by a minor child who was then residing with the decedent's second wife in Dade County. In 1977, Reginald executed a revocable trust designating himself as trustee and lifetime beneficiary of the trust. Upon his death, his home was to be gifted to an adult child by an earlier marriage. The decedent transferred his home to the trust. The Court held that by retention of the complete control of the property with an absolute right to revoke the trust, it was apparent that the testator intended to circumvent the constitutional restriction on testamentary disposition of the homestead, while at the same time treating the property as his own during his lifetime. In a concurring opinion, one judge raised the question of whether a transfer to an irrevocable trust might be valid. The estate planner should be especially careful when dealing with homestead property.

The Florida homestead laws can be very confusing. The following examples may clarify their application:

Example A: Retiree has no minor child. He can devise his homestead to his spouse.

Example B: Retiree has a minor child. He cannot devise his homestead to his spouse.

Example C: Retiree has a spouse but no minor children and devises the homestead to a third party. The devise is ineffective even if it is a devise to his adult child.

Example D: Retiree has a spouse but no minor children and devises the homestead jointly to his wife and one of several adult children. The devise is ineffective.

Example E: If the retiree makes no provision in his Will for his homestead, or the devise is ineffective, then the surviving spouse receives a life estate and the remainder will be vested in the testator's lineal descendants who are living at his death.

Example F: Retiree has no spouse but has adult children. He can devise the homestead any way he pleases.

Example G: Retiree has a spouse and children (some of whom may be minors) and wants to sell or mortgage the homestead during his lifetime. He can do so if the spouse consents.

Example H: Retiree has no spouse but has minor children and wants to sell or mortgage the homestead. He can do so.

9. Florida legal documents should be reviewed, if not prepared, by a Florida attorney in order to comply with the Florida Bar's ethics rules.

IV. TAX PLANNING WITH AN EYE ON ASSET PROTECTION - FLORIDA EXEMPTIONS

When performing income, estate or gift tax planning for a client, it is important to consider the consequences of any given plan upon the client's ability to protect assets from the claims of potential creditors. While the majority of clients have tax planning objectives that do not require a heavy emphasis on asset protection, many professionals and businessmen are operating in a climate of increased litigation and the resultant expenses. It is always important to remember that the Uniform Fraudulent Transfer Act, as adopted in Florida and other states, will prohibit any transfers to hinder, delay or defraud current creditors (even those creditors that one may not be aware of). However, planning for the future is both important and appropriate.

Some of the planning will revolve around the following Florida law exemptions:

A. Annuity Contracts

Proceeds of annuity contracts issued to citizens or residents of Florida not liable to attachment, garnishment or legal process in favor of any creditor of person who is beneficiary of such annuity contract, unless contract was created for benefit of creditor (F.S. §222.14). Cash surrender values are also exempt from creditors claims.

B. Deferred Compensation Plans

Amounts accruing to any person under deferred compensation plan not subject to attachment by creditor of employee. (F.S. §112.215(2)).

C. Disability Income Benefits

Disability Income Benefits under any insurance contract are not liable to attachment, garnishment or legal process in favor of any creditor of recipient of such benefits unless contract was issued for benefit of creditors. (F.S. §222.18).

D. Employee Retirement Income Security Act of 1974 Plans; Employee Stock Ownership Plans

Any money or other assets payable to a beneficiary under such type of plan is exempt from all claims of creditors of the beneficiary. However, there is no exemption from the claims of an alternate payee under a qualified domestic relations order. (F.S. §222.21(2)(a), (b)).

E. Homestead

Homestead property (to the extent of one-half acre of contiguous land if located within a municipality, or one hundred sixty acres of contiguous land if located outside a municipality) is exempt from forced sale and any judgment liens, except for:

1. Liens for the payment of taxes and assessments on the property;
2. Obligations contracted for the purchase, improvement or repair of the property; or
3. Obligations contracted for construction or improvements on the property. (Fla. Const. Article X, Section 4).

F. Individual Retirement Accounts

Any monies payable to a beneficiary of an IRA is exempt from all claims of creditors of the beneficiary, except for claims of an alternate payee under a qualified domestic relations order. (F.S. §222.21(2)(a),(b)).

G. Life Insurance Policy - Cash surrender Value

The cash surrender values of life insurance policies issued on residents of the State of Florida are not liable to attachment, garnishment or legal process in favor of any creditor of the insured unless such contract was put in effect for the benefit of such creditor. (F.S. §222.14).

H. Life Insurance Policy - Proceeds

Proceeds from life insurance policies are exempt from claims of the creditors of the insured unless the insurance policy or a valid assignment of the policy provides otherwise. However, if the insurance is payable to the insured or his estate, the proceeds shall become a part of the estate and shall be administered by the personal representative in like manner as other assets of the insured's estate. (F.S. §222.13).

I. Partnership Property

While there is no exemption from creditor's claims against a debtor's partnership interest, the creditor is limited to a charging order. However, a partner's right in specific partnership property is not subject to attachment or execution, except on a claim against the partnership. (F.S. §620.68(2)(c)).

J. Pension Benefits

Any money payable to a beneficiary under a qualified pension plan is exempt from all claims of creditors of the beneficiary, except for the claims of an alternate payee under a qualified domestic relations order. (F.S. §222.21(2)(a), (b)).

K. Personal Property

The personal property of a debtor is exempt from the claims of creditors to the extent of the value of \$1,000 of such property. (Fla. Const. Article X, Section 4).

L. Retirement Benefits - State of Florida

Benefits which accrue to any person under F.S. Ch. 121, "Florida Retirement System", as well as the accumulated contributions, securities, or other investments in trust funds created under Ch. 185 are not subject to attachment or other legal process. (F.S. §121.131).

M. Spendthrift Trust - Interest In

A beneficiary's interest in a trust which has a spendthrift clause will be exempt from claims of creditors of such beneficiary, except for garnishment for alimony and suit money (Fla. Case law).

N. Tenancy by the Entirety Property

While this property cannot be reached by a creditor of only one of the spouses, it may be reached by joint creditors of both spouses under a general lien theory.

O. Unemployment Compensation Benefits

These benefits are exempt from the claims of creditors except that child support claims cannot be defeated. (F.S. §443.051).

P. Veterans Benefits

Except as provided by Federal law, such benefits are not subject to creditor's claims. (F.S. §744.626).

Q. Wages

Wages may not be garnished or attached if the wages are payable to any person who is the "head of a family" residing in the State of Florida, when the money is due for personal labor or services. The head of the family must be providing at least one-half of the support for a child or other dependent and the wages must be deposited in a bank account. The exemption will not defeat any claims for child support or alimony. (F.S. §222.11).

R. Workers' Compensation Benefits

Compensation and benefits paid in accordance with F.S. Ch. 440, "Workers' Compensation". Are exempt from creditor's claims. (F.S. §440.22).

List of Exhibits

- A Pages 4 and 5 of Instructions to 2007 NJ 1040 – NR
- B Page 58 of instructions to 2007 NY IT-203-1
- C New York State Tax Department Audit Questionnaires and New York State Estate Tax domicile Affidavit
- D Sample letter to client regarding sales of LLC interests in a LLC that owns a residence
- E Sample letter to client regarding domicile advice, and
Email regarding Connecticut audit of a Change of Domicile
- F Declaration of Domicile
- G Voter Registration Information
- H Automobile Registration Information
- I Homestead information, and
Letter to client regarding applying for homestead exemption
- J New York Tax Department audit position on the use of LLC for real estate owned by a nonresident of New York
- K Revocable Trust Provision to preserve Homestead Exemption

EXHIBIT A

FILING INFORMATION

- Your filing status and gross income determine whether you have to file a tax return.
- Age is not a factor in determining whether a person must file. Even minors (including students) and senior citizens must file if they meet the income filing requirements.
- *Gross income* means reportable income after exclusions but before personal exemptions are subtracted. It does not include nonreportable (exempt) benefits. See page 16 to find out which types of income are not reportable.
- Members of the Armed Forces see page 7 for additional information.
- Compensation paid to Pennsylvania residents employed in New Jersey is not subject to New Jersey income tax. See page 5 for more information.

Use the following chart to determine whether you must file a tax return. This chart is a guide only and may not cover every situation. If you need assistance, contact the Division's Customer Service Center (609-292-6400).

Who Must File

You must file a New Jersey income tax return if –
Your residency status is:

and your gross income from everywhere was more than:
your filing status is:

Nonresident — File Form NJ-1040NR as a nonresident if:

- New Jersey was not your domicile (permanent legal residence); and you spent 183 days or less here; OR
- New Jersey was not your domicile, you spent more than 183 days here, but you did not maintain a *permanent** home here

You may also be considered a nonresident for New Jersey income tax purposes if you were domiciled in New Jersey and you met all three of the following conditions for the entire year:

1. You did not maintain a *permanent* home in New Jersey; and
2. You did maintain a *permanent* home outside of New Jersey; and
3. You did not spend more than 30 days in New Jersey.

Single \$10,000
Married/CU partner, (from all sources)
filing separate return

Married/CU couple, \$20,000
filing joint return (from all sources)
Head of household
Qualifying widow(er)/
surviving CU partner

Part-Year Resident — File Form NJ-1040 as a part-year resident if:

You met the definition of resident for only part of the year.

NOTE: Both part-year resident (Form NJ-1040) and part-year nonresident (Form NJ-1040NR) returns may have to be filed when a part-year resident receives income from New Jersey sources during the period of nonresidence.

Single \$10,000 from all sources
Married/CU partner, (for the entire year)
filing separate return

Married/CU couple, \$20,000 from all sources
filing joint return (for the entire year)
Head of household
Qualifying widow(er)/
surviving CU partner

Full-Year Resident — File Form NJ-1040 as a full-year resident if:

- New Jersey was your domicile for the entire year; OR
- New Jersey was not your domicile, but you maintained a *permanent** home in New Jersey for the entire year and you spent more than 183 days in New Jersey. (If you are a member of the Armed Forces stationed here and New Jersey is not your domicile, you are not a resident under this definition.)

Single \$10,000
Married/CU partner, (from all sources)
filing separate return

Married/CU couple, \$20,000
filing joint return (from all sources)
Head of household
Qualifying widow(er)/
surviving CU partner

* A home (whether inside or outside of New Jersey) is not permanent if it is maintained only during a temporary or limited period for the accomplishment of a particular purpose. Likewise, a home used only for vacations is not a permanent home.

Other Filing Information

Married/Civil Union Couples and Filing Status. If both you and your spouse/civil union partner were nonresidents of New Jersey during the entire taxable year, and only one of you earned, received, or acquired income from New Jersey sources, the spouse/civil union partner who had income from New Jersey sources may file a separate New Jersey return even if a joint Federal return was filed. The spouse/civil union partner with income from New Jersey sources computes income and exemptions as if a Federal married, filing separate return had been filed. You have the option of filing a joint return, but remember, joint income would be reported in Column A of Form NJ-1040NR.

If one spouse/civil union partner was a nonresident and the other a resident of New Jersey during the entire taxable year and both had income from New Jersey sources, separate New Jersey returns may be filed (the nonresident files a nonresident return and the resident files a resident return). Each computes income and exemptions as if Federal married, filing separate returns had been filed. You have the option of filing a joint resident return, but remember, joint income would be taxed as if both were residents.

Domicile. A domicile is any place you regard as your permanent home—the place to which you intend to return after a period of absence (as on vacation abroad, business assignment, educational leave, etc.). A person has only one domicile, although he or she may have more than one place to live. Once established, your domicile continues until you move to a new location with the intent to establish your permanent home there and to abandon your New Jersey domicile. Moving to a new location, even for a long time, does not change your domicile if you intend to return to New Jersey.

A place of abode, whether inside or outside of New Jersey, is not permanent if it is maintained only during a temporary stay for the accomplishment of a particular purpose (e.g., temporary job assignment). If New Jersey is your domicile, you will

TAXPAYERS' BILL OF RIGHTS

The New Jersey Taxpayers' Bill of Rights simplifies tax administration and ensures that all taxpayers—individuals and businesses alike—are better informed and receive fair and equitable treatment during the tax collection process. Highlights of the Taxpayers' Bill of Rights include:

Service—

- Division must respond to taxpayers' questions within a reasonable time period.
- Notices of taxes and penalties due must clearly identify the purpose of the notice and must contain information about appeal procedures.

Appeals—

- Time to appeal to the Tax Court is generally 90 days.

Interest on Refunds—

- Interest is paid at the prime rate on refunds for all taxes when the Division takes more than six months to send you a refund.
- You may request that your overpayment of this year's tax be credited towards next year's tax liability, however, interest will not be paid on overpayments that are credited forward.

For more information on the rights and obligations of both taxpayers and the Division of Taxation under the Taxpayers' Bill of Rights, request our publication ANJ-1, *New Jersey Taxpayers' Bill of Rights*.

be considered a resident for New Jersey tax purposes *unless* you meet all three conditions for nonresident status (see "Who Must File" on page 4). Likewise, if New Jersey is not your domicile, you will only be considered a New Jersey resident if you maintain a permanent home and spend more than 183 days here.

Pennsylvania Residents

Income From New Jersey. As a result of the Reciprocal Personal Income Tax Agreement between the Commonwealth of Pennsylvania and the State of New Jersey, compensation paid to Pennsylvania residents employed in New Jersey is not subject to New Jersey income tax. Compensation means salaries, wages, tips, fees, commissions, bonuses, and other remuneration received for services rendered as an employee.

If New Jersey income tax was withheld from your wages, you must file a New Jersey nonresident return to obtain a refund. To stop the withholding of New Jersey income tax, complete a New Jersey Certificate of Nonresidence (Form NJ-165) and give it to your employer. You may obtain Form NJ-165 by contacting the Division's Customer Service Center. Form NJ-165 is also available on

the Division's Web site at www.state.nj.us/treasury/taxation/

The Reciprocal Agreement covers compensation only. If you are self-employed or receive other income (for example, gain from sale of property) which is taxable in both states, you must file a New Jersey nonresident return and report the income received.

Column A. Complete Column A, Lines 14 through 26, showing income from everywhere.

Column B. When Pennsylvania residents complete Column B, employee compensation from New Jersey sources should not be included on Line 14. For Pennsylvania residents Line 14, Column B, is zero, so enter "0."

Withholdings. If New Jersey income tax was withheld, enter the amount from your W-2(s) on Line 44.

Signed Statement. Pennsylvania residents employed in New Jersey who had New Jersey income tax erroneously withheld must enclose a signed statement declaring the following, "Under penalties of perjury, I affirm that I am a resident of the Commonwealth of Pennsylvania and that, pursuant to an agreement existing between the Commonwealth and the State

continued

EXHIBIT B

Additional general information

Definitions used to determine resident, nonresident, or part-year resident

You may have to pay income tax as a New York State resident even if you are not considered a resident for other purposes. For income tax purposes, your resident status depends on where you were domiciled and where you maintained a permanent place of abode during the tax year.

Domicile

In general, your *domicile* is the place you intend to have as your permanent home. Your domicile is, in effect, where your permanent home is located. It is the place you intend to return to after being away (as on vacation abroad, business assignment, educational leave, or military assignment).

You can have only one domicile. Your New York domicile does not change until you can demonstrate that you have abandoned your New York domicile and established a new permanent domicile outside New York State.

A change of domicile must be *clear and convincing*. Easily controlled factors such as where you vote, where your driver's license and registration are issued, or where your will is located are not primary factors in establishing domicile. To determine whether you have, in fact, changed your domicile, you should compare (1) the size, value, and nature of use of your first residence to the size, value, and nature of use of your newly acquired residence; (2) your employment and/or business connections in both locations; (3) the amount of time spent in both locations; (4) the physical location of items that have significant sentimental value to you in both locations; and (5) your close family ties in both locations. A change of domicile is *clear and convincing* only when your primary ties are clearly greater in the new location. When weighing your primary ties, keep in mind that some may weigh more heavily than others, depending upon your overall lifestyle. If required by the Tax Department, it is the taxpayer's responsibility to produce documentation showing the necessary intention to effect a change of domicile.

If you move to a new location but intend to stay there only for a limited amount of time (no matter how long), your domicile does not change. For example, Mr. Green of ABC Electronics in Newburgh, New York, was temporarily assigned to the Atlanta, Georgia branch office for two years. After his stay in Atlanta, he returned to his job in New York. His domicile did not change during his stay in Georgia; it remained New York State.

If your domicile is in New York State and you go to a foreign country because of a business assignment by your employer, or for study, research or any other purpose, your domicile does not change unless you show that you definitely do not intend to return to New York.

Permanent place of abode

A *permanent place of abode* is a residence (a building or structure where a person can live) that you permanently maintain, whether you own it or not, and usually includes a residence your husband or wife owns or leases. A place of abode is not permanent if you maintain it only during a temporary or limited period of time for a particular purpose.

Resident

You are a New York State resident for income tax purposes if:

- Your domicile is not New York State but you maintain a permanent place of abode in New York State for more than

11 months of the year and spend **184 days or more** (any part of a day is a day for this purpose) in New York State during the tax year.

However, if you are a member of the armed forces, and your domicile is not New York State, you are not a resident under this definition; or

- Your domicile is New York State. However, even if your domicile is New York, you are not a resident if you meet all three of the conditions in either Group A or Group B as follows:

Group A

- 1) You did not maintain any permanent place of abode in New York State during the tax year; and
- 2) You maintained a permanent place of abode outside New York State during the entire tax year; and
- 3) You spent **30 days or less** (any part of a day is a day for this purpose) in New York State during the tax year.

Group B

- 1) You were in a foreign country for at least 450 days during any period of 548 consecutive days; and
- 2) You spent **90 days or less** (any part of a day is a day for this purpose) in New York State during this 548-day period, and your spouse (unless legally separated) or minor children spent **90 days or less** (any part of a day is a day for this purpose) in New York during this 548-day period in a permanent place of abode maintained by you; and
- 3) During the nonresident portion of the tax year in which the 548-day period begins, and during the nonresident portion of the tax year in which the 548-day period ends, you were present in New York State for no more than the number of days which bears the same ratio to 90 as the number of days in such portion of the tax year bears to 548. The following formula illustrates this condition:

$$\frac{\text{Number of days in the nonresident portion}}{548} \times 90 = \text{Maximum number of days allowed in New York State}$$

Nonresident

You are a New York State nonresident if you were not a resident of New York State for any part of the year.

Part-year resident

You are a New York State part-year resident if you meet the definition of resident or nonresident for only part of the year.

New York City and Yonkers

For the definition of a **New York City** or **Yonkers** resident, nonresident, and part-year resident, see the definitions of a New York State resident, nonresident, and part-year resident above, and substitute *New York City* or *Yonkers* in place of *New York State*.

Special accruals for full-year nonresidents

You are subject to special accrual rules in computing your New York State personal income tax for 2007 if you meet the following criteria:

- you were a resident of New York State on December 31, 2006, or you became a resident of New York State on January 1, 2008, and
- you had accrued income (see definition on page 59) for 2007.

EXHIBIT C

1. When was a New York State Resident Personal Income Tax Return last filed by you and/or your spouse?

2. If you were at any time a resident of New York, what was done to change your status from a resident to a non resident? Please provide detailed information relative to your intentions.

3. For the tax years indicated, give your employer's name and address, or if self-employed, the name and address where you carry on your profession, business or trade.

Name _____
Address _____
City _____ State _____ Zip _____
Telephone Number _____
Job Title/Nature of Job _____

{Attach additional sheets if needed}

4. Were/are you associated with any business activity conducted in New York (i.e. Partnerships, S Corporation, etc.)? () No () Yes

Name _____
Address _____
Nature of Activity _____
Employer ID No. _____

{Attach additional sheets if needed}

5. For the tax years indicated, did you or your spouse own, rent, lease or otherwise maintain living quarters in New York State? () No () Yes

If yes, please supply the following:

Name _____
Address _____
City _____ State _____ Zip _____
Telephone Number _____

Give inclusive dates that such living quarters were maintained. From _____
To _____

6. Was the property under New York City rent control/rent stabilized?

() No () Yes

7. If you do not maintain living quarters in New York State, where do you regularly stay while in New York State?

8. If married, give address at which spouse and children, if any, resided during the nonresident period.

9. Are you or your spouse member(s) of any clubs or social organizations located in New York State. If so, please complete the following:

Name _____

Address _____

Type of Membership _____

10. For the tax years indicated, how many days or part days were you physically present in New York State for non-working days such as weekends, vacations, holidays, illness and any other non working days during each year?

11. For the tax years indicated, how many days or part days were you physically present in New York State for work purposes?

12. Any additional information you wish to provide?

**TAXPAYER - I DECLARE THAT THE ABOVE STATEMENTS ARE TRUE,
CORRECT AND COMPLETE TO THE BEST OF MY KNOWLEDGE AND BELIEF.**

Your Signature

Date

Date of Birth

Spouse's Signature

Date

Date of Birth

New York State Estate Tax Domicile Affidavit

For estates of decedents dying after May 25, 1990

ET-141
(1/99)

Complete Form ET-141 if it is claimed that the decedent was not domiciled in New York State at the time of death. The fiduciary (executor or administrator), the surviving spouse or a member of the decedent's immediate family who can provide all the information requested below should complete this affidavit.

Answer all questions completely. Attach this form to Form ET-90 or Form ET-85.

Decedent's last name		First	Middle initial	Social security number	
Address of decedent at time of death (number and street)				Date of death	
City, village or post office		County	State	ZIP code	Country of residence
Age at death	Date of birth	Place of birth			

1 If born outside the United States, was the decedent a naturalized citizen of the United States? Yes No
If Yes, enter (below) the name and address of the court where the decedent was naturalized.

Name and address of court where naturalized

2 Did decedent ever live in New York State? Yes No If Yes, list periods.

3 Did decedent ever own, individually or jointly, any interest in real estate located in New York State? Yes No If Yes, list addresses and periods below (attach additional sheets if necessary).

Periods of time - from/to	Addresses of property

4 Did decedent lease a safe deposit box located in New York State at the time of death? Yes No
If Yes, complete box below. Also, if Yes, has it been inventoried? Yes No If Yes, attach copy of inventory.

Name and address of bank where box is located

5 Provide the following information regarding the residences of the decedent during the last five years preceding death (attach additional sheets if necessary).

In New York State			Outside New York State		
Period of time from - to	Address	Residence owned - rented other - explain	Period of time from - to	Address	Residence owned - rented other - explain

6 For the five years prior to death, list (1) the Internal Revenue Service Centers and (2) the states or other municipalities where the decedent filed income tax returns if no income tax returns were filed, enter none).

Year	Internal Revenue Service Center	State, county, or municipality

Privacy Notification

The right of the Commissioner of Taxation and Finance and the Department of Taxation and Finance to collect and maintain personal information, including mandatory disclosure of social security numbers in the manner required by tax regulations, instructions, and forms, is found in Articles 22, 26, 26-A, 26-B, 30, 30-A, and 30-B of the Tax Law; Article 2-E of the General City Law; and 42 USC 405(c)(2)(C)(i).

The Tax Department will use this information primarily to determine and administer tax liabilities due the state and city of New York and the city of Yonkers. We will also use this information for certain tax offset and exchange of tax information programs authorized by law, and for any other purpose authorized by law.

Information concerning quarterly wages paid to employees and identified by unique random identifying code numbers to preserve the privacy of the employees' names and social security numbers will be provided to certain state agencies for research purposes to evaluate the effectiveness of certain employment and training programs.

Failure to provide the required information may result in civil or criminal penalties, or both, under the Tax Law.

This information will be maintained by the Director of the Registration and Data Services Bureau, NYS Tax Department, Building 8 Room 924, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the U.S. and outside Canada, call (518) 485-6800.

7 List the states where the decedent was registered to vote during the last five years preceding death (list latest year first).

Years		State
From	To	
	Date of death	

If decedent did **not** vote in those five years, when did he or she last vote? Where?

--	--

8 List employment or business activities (if any) engaged in by the decedent during the five years preceding the date of death.

In New York State		Outside New York State	
Period of time from - to	Nature of employment or business activities	Period of time from - to	Nature of employment or business activities

9 Was decedent a party to any legal proceedings in New York State during the last five years? Yes No If Yes, list courts, dates and types of action.

--

10 Did decedent have a license to operate a business, profession, motor vehicle, airplane or boat? Yes No If Yes, list below.

License number	Type of license	Date of issuance	Name and location of issuing office

11 Did decedent execute any trust indentures, deeds, mortgages or any other documents describing his or her residence during the last five years preceding death? Yes No If Yes, attach copy.

12 Was the decedent a member of any church, club or organization? Yes No If Yes give name, address and other details. (Attach additional sheets if necessary.)

--

13 What other information do you wish to submit in support of the contention that the decedent was not domiciled in New York State at the time of death? (Attach additional sheets if necessary.)

--

Applicant's last name	First	Middle initial	Relationship to decedent
Address (number and street)			Connection with estate
City, village or post office		State	ZIP code

The undersigned states that this affidavit is made to induce the Commissioner of the Department of Taxation and Finance of the State of New York to determine domicile, and that the answers herein contained to the foregoing questions are each and every one of them true in every particular.

Signature of applicant _____

Notary Public, Commissioner of Deeds or Authorized New York State Department of Taxation and Finance employee (no seal required)

Sworn before me this _____ day of _____ 19 _____

Signature

EXHIBIT D

EXHIBIT D

MEMORANDUM

TO: Clients
FROM: Alvin C. Martin
DATE: April 27, 2007
RE: Sale of LLC interests by non-residents of New Jersey

This memorandum regarding the above subject takes note of an excerpt from page 18 of the New Jersey Division of Taxation Bulletin GIT-9P (Revised 1/07) entitled Tax Topic-Income from Partnerships attached as Exhibit A. The excerpt states in part:

“If you were a nonresident at the time you disposed of your partnership interest do not include the gain from the disposition of your partnership interest in your income from New Jersey sources on Line 22 Column B, Form NJ-1040NR.”

The following are suggested steps in connection with a proposed sale of LLC interests by nonresidents of New Jersey in order that the gain on the sale not be taxable in New Jersey:

1. You and Nancy form a New Jersey LLC on or about May 8, 2007, and you each transfer \$10,000 to the LLC in exchange for a 50% interest in the LLC.

2. On or about June 8, 2007, you and Nancy transfer your residence¹ and tangible personal property such as furniture and furnishings to the LLC for no consideration in a tax free contribution of property to a partnership under section 721 of the Internal Revenue Code of 1986, as amended.

3. You and Nancy complete New Jersey Form GIT/REP-3 entitled Seller's Residency Certification/Exemption and check box 7 which states as follows: “7 The gain from the sale will not be recognized for Federal income tax purposes under I.R.C. 721....” A copy of the Form GIT/Reg-3 (2-07) is attached here as Exhibit B.

4. A transfer of a residence to a LLC for no consideration is not subject to the New Jersey Real Property Transfer Tax. You and Nancy complete Affidavit of Consideration for use by Seller by stating in paragraph 4 – Full Exemption From Fee – that the consideration for the deed was less than \$100. A copy of the Affidavit of Consideration is attached as Exhibit C.

¹ I assume that there is no mortgage on the property, so lender approval is not an issue.

DrinkerBiddle

5. You and Nancy should pay fair rental value (as determined by an appraisal or a real estate broker in your area familiar with rentals of homes) pursuant to a lease to the LLC for the period of your occupancy of the residence. The LLC would have its own books and records and bank account, and it would file federal and New Jersey income tax returns reporting the rental income and available deductions, including depreciation. All transactions involving the residence should be in the name of the LLC, and homeowners residence should show the LLC as the owner of the residence.

6. I suggest that the LLC own the residence for two years² prior to selling the LLC interests.

7. As nonresidents of New Jersey, you and Nancy's sales in the aggregate of 100% of the LLC interests should not be subject to the New Jersey Gross Income Tax or the New Jersey Real Property Transfer Tax.

8. If the buyer of the LLC interests desires to have the deed to the residence in his/her name, a transfer of the residence by the LLC to the buyer is not subject to New Jersey gross income tax but is subject to the New Jersey Real Property transfer tax.³

9. The sales of the LLC interests should not take place until after the LLC interests are owned for two years² by the LLC in order to attempt to avoid an argument that the LLC was formed solely to avoid New Jersey income tax.

I note that many of the above LLC steps would be followed if you were to acquire a home or a condominium in New York that you did not plan to sell. The transfer to the New York LLC could be an attempt to avoid New York estate tax on the residence by converting it to a LLC, an intangible asset.

ACM:cd

² Our office is somewhat hesitant to suggest that a two-year holding period necessarily defeats a possible step-transaction argument of the New Jersey Division of Taxation unless there is some other purpose which will be served by transferring the residence to an LLC. The other purpose could be limited liability asset protection if the residence were rented to an unrelated party during the winter months..

³ I have been informed that the New Jersey Real Property transfer tax is \$33,775 for a residence sold for a consideration of \$3,000,000.

EXHIBIT E

MEMORANDUM

TO: [REDACTED]
CC: [REDACTED]
FROM: Alvin C. Martin
DATE: [REDACTED]
RE: Change of Domicile - New York Department of Taxation Residency Audit Guidelines- as Applied to a Former Connecticut Domiciliary

This memorandum is based on New York Department of Taxation ("NYDT") Residency Audit Guidelines (the "Guidelines") and New York law; and while the Guidelines are not entirely relevant to a determination of domicile for a former resident of Connecticut, and is not binding on the Connecticut tax authorities it may be useful as a guide in reviewing the facts and circumstances of your change of domicile to Florida.

The NYDT Guidelines consist of four primary factors.

1. Time spent in Florida compared to Connecticut. I generally recommend that my clients spend six and one-half to seven months in Florida, if possible (especially in the first few years after the change of domicile) and no more than five months in Connecticut. It is important that you spend more time in Florida than the combined time you spend elsewhere.
2. Home. Compare size and value of home in Florida compared to Connecticut.
3. Active Business involvement in Florida and Connecticut. Compare all active business interests in Florida and Connecticut. Terminate all interests as a general

partner of a Connecticut partnership or as an active member of a Connecticut LLC as they would be negative factors in the determination of a change of domicile. Interests as a passive investor or as a limited partner in Connecticut entities would not be detrimental to your position.

In connection with a change of domicile, it is helpful to point to an identifiable event such as a retirement from an active business in Connecticut, resignation as an officer or director of a Connecticut trade or business or the sale of a principal residence in Connecticut.

4. Items near and dear to your heart – It would be helpful if your hobby collections, art, family heirlooms, etc. were shipped from Connecticut to Florida as evidenced by items of said property listed in a moving receipt and/or your homeowner's insurance policy.

If three of the four primary factors were decided in favor of Florida, the NYDT auditor would conclude that a change of domicile has occurred.

5. Family Connections – If the above four primary factors are not determinative, then the NYDT auditor will inquire as to a fifth factor - family connections – and ask whether your minor children, if any, are in Florida or in the Connecticut area?

If the NYDT auditor cannot make a determination based on the above primary factors, then he will review Other Factors listed in the Summary of the Guidelines attached hereto in order to assist it in his domicile determination. The Other Factors, such as automobile registration and license, voter's registration, etc., are within an

individual's control and should lead to a determination of change of domicile to Florida in the case of a former New York domiciliary.

Under New York law, an individual is a resident of New York for New York State income tax purposes (1) if he has not met his burden of proof by clear and convincing evidence (three of the four Primary Factors in favor of Florida) that he has abandoned New York as his domicile, and (2) even if an individual has successfully changed his domicile from New York to another state, if he is a statutory resident of New York.¹

An individual would be classified as a statutory resident for New York income tax purposes if he were to:

- (a) maintain a permanent place of abode in New York; and
- (b) if he were to be physically present in New York for more than 183 days in a calendar year.

Even if you have successfully changed your domicile, you must keep a diary or a calendar, as supported by credit card receipts, phone bills, etc. to prove that you are not physically present in Connecticut for more than 183 days in a calendar year.

¹ I am assuming that Connecticut income tax law is similar to the New York income tax law [REDACTED] is to confirm this point.

MARTIN, ALVIN C.

SENT: MONDAY, MAY 12, 2008

TO: ALVIN C. MARTIN

A brief summary of the events regarding the [REDACTED] 2003 CT audit follow:

1. On March 23, 2008 the [REDACTED] received a notice from [REDACTED] Systems for the collection of \$133,764.07 due to the CT Dept of Revenue. This was the very first indication that the [REDACTED] or I had that there was a problem in CT.
2. [REDACTED] faxed a quick note to [REDACTED] Systems saying that he had no record of receiving a claim from CT and that he would look into the matter.
3. I was contacted and obtained a Power of Attorney from [REDACTED] and [REDACTED]. On May 23 I contacted [REDACTED] Systems and obtained the name of [REDACTED] as the contact to speak to in CT.
4. [REDACTED] told me the issue was residency in CT and that they had not been able to find the [REDACTED]. I informed her that the [REDACTED] had not resided in CT at all during 2003. Ms. [REDACTED] requested proof of the [REDACTED] Florida residency.
5. On March 25, 2008 I sent by registered mail the following documents:
 - a. [REDACTED] and [REDACTED] Declarations of Domicile in the State of Florida dated 1/29/03.
 - b. Receipt from the County of Collier Florida Clerk of the Circuit Court for filing the Declaration of Domiciles dated 2/6/03.
 - c. Copies of Florida driver's licenses for both [REDACTED] and [REDACTED].
 - d. Copies of Voter Registration cards for Both [REDACTED] and [REDACTED] dated May 14, 2003.

- [REDACTED]
- [REDACTED]
- [REDACTED]
8. April 25, 2008 I spoke by phone with Ms. [REDACTED] who told me she was doing some research, such as contacting the city of Fairfield to verify when the residence was sold (Sept., 2003) and when the [REDACTED] last voted. [REDACTED] asked for some additional information. She told me that she really did not want to send out a questionnaire and would try to resolve the matter without the need for a questionnaire.

[REDACTED] April 28, 2008 I sent by registered mail the additional information requested by [REDACTED].

- a. Copy of taxpayers' 2003 Federal tax return.
 - b. Copy of taxpayers' 2003 New York Non-resident return.
 - c. Copy of [REDACTED] 2003 W-2 from [REDACTED] Group Intl.
- [REDACTED]

[REDACTED]

The majority of documents used to prepare the return indicated a Florida address; all of [REDACTED] documents and most of [REDACTED] have the Florida address. The only questionable documents I see are [REDACTED] Form 1099-R statements. They originally had the CT address; I requested that [REDACTED] get them to change the address. They did this but they did not change a CT designation for a portion of the income. We contacted them at the time and were assured that the information was changed for [REDACTED] however, I did not receive a copy of the change.

EXHIBIT F

STATE OF FLORIDA DECLARATION OF DOMICILE

TO THE CLERK OF THE CIRCUIT COURT OF LEE COUNTY.
THIS IS MY DECLARATION OF DOMICILE IN THE STATE
OF FLORIDA THAT I AM FILING THIS DAY IN ACCORDANCE
AND IN CONFORMITY WITH SECTION 222.17 FLORIDA
STATUTES. I HEREBY DECLARE THAT I RESIDE IN AND
MAINTAIN A PLACE OF ABODE AT:

Number and Street

_____, FLORIDA

City, County, Zip

"Date You Became a Resident"

WHICH PLACE OF RESIDENCE I RECOGNIZE AND INTEND TO MAINTAIN AS MY PERMANENT HOME AND, IF I MAINTAIN ANOTHER PLACE OR PLACES OF ABOVE IN SOME OTHER STATE OR STATES, I HEREBY DECLARE THAT MY ABOVE-DESCRIBED RESIDENCE AND ABODE IN THE STATE OF FLORIDA CONSTITUTES MY PREDOMINANT AND PRINCIPAL HOME, AND I INTEND TO CONTINUE IT PERMANENTLY AS SUCH. I AM, AT THE TIME OF MAKING THIS DECLARATION, A BONA FIDE RESIDENT OF THE STATE OF FLORIDA.

I formerly resided at:

I maintain another home at:

Number and Street

Number and Street

City, County, State, Zip

City, County, State, Zip

Date

Date

Signature

Signature

Print Name

Print Name

State of Florida

County of Lee:

Sworn to and subscribed before me this _____ day of _____ 20 _____
by _____, who [] is personally known to me or [] has produced the following type of ID:

Signature of Notary

CHARLIE GREEN
Clerk of Circuit Court

Print, Type or Stamp Commissioned Name

Commission Number:

Commission Expires:

281-1A2rev2/00

(SEAL)

EXHIBIT G

FLORIDA VOTER REGISTRATION APPLICATION

YOU CAN USE THIS FORM TO: REGISTER TO VOTE IN THE STATE OF FLORIDA • CHANGE NAME OR ADDRESS • REPLACE YOUR DEFACED, LOST, OR STOLEN VOTER INFORMATION CARD • REGISTER WITH A POLITICAL PARTY OR CHANGE PARTY AFFILIATION • UPDATE YOUR SIGNATURE

To Register, You Must:

- Be a citizen of the United States of America. (BOX #2)
- Be a Florida resident. (BOX #6)
- Be 18 years old (you may pre-register if you are 17). (BOX #5)
- Not now be adjudicated mentally incapacitated with respect to voting in Florida or any other state. (BOX #4)
- Not have been convicted of a felony in Florida, or any other state, without your civil rights having been restored. (BOX #3)
- Provide your current and valid Florida driver's license number or Florida identification card number. If you do not have a current and valid Florida driver's license or Florida identification card, you must provide the last four digits of your Social Security number. If you do not have a FL DL#, FL ID card#, or SSN, write "NONE" in the box. (BOX #6)
- Complete all information in the black boxes on the application. (BOXES #2,3,4,5,6,7,8 & 16)

Deadline Information:

If this is a new registration application, the date the completed application is postmarked or hand-delivered to a driver's license office, a voter registration agency, an armed forces recruitment office, the Division of Elections, or the office of any supervisor of elections in the state will be your registration date. If this is a new Florida application, you must be registered for at least 29 days before you can vote in an election. If your application is complete and you are qualified as a voter, a voter information card will be mailed to you.

Party Affiliation (BOX #12):

If you wish to register with a major political party, place an "X" in the box preceding the listed party with which you wish to affiliate. If you wish to register with a minor political party, place

an "X" in the box preceding "Other, Minor Party" and print the name of the party with which you wish to affiliate. A list of the minor political parties is on the website for the Division of Elections: <http://election.dos.state.fl.us/online/parties.shtml>. If you wish to register without party affiliation, place an "X" in the box preceding "No Party Affiliation".

Florida is a closed primary state. If you wish to register to vote in a partisan primary election, you must be a registered voter in the party for which the primary is being held. All registered voters, regardless of party affiliation, can vote on issues and non-partisan candidates.

Notice:
The office at which you register, or your decision not to register, your SSN, your FL DL# and

your FL ID card# will remain confidential and will be used only for voter registration purposes.

Note: If the information on this application is not true, the applicant can be convicted of a felony of the third degree and fined up to \$5,000 and/or imprisoned for up to five years.

Questions:

Contact the office of your county supervisor of elections for additional information. Contact information is on the website for the Division of Elections: <http://election.dos.state.fl.us/county/index.shtml>

Información en Español:
Si vase llamar a la oficina del supervisor de elecciones de su condado si le interesa obtener este formulario en Español.

PLEASE COMPLETE THE APPLICATION BELOW. PLEASE PRINT USING A BLACK BALL POINT PEN.

- 1) Black boxes must be completed on the application below for registration to be valid.
- 2) Return this completed application to the office of your supervisor of elections.
- 3) If you are a first-time voter in this state applying by mail to register to vote and you have not been issued a FL DL#, FL ID#, or SSN, include a copy of your ID with the application.
- 4) Mail with first class stamp.

REVISED 1/06

FLORIDA VOTER REGISTRATION APPLICATION

REQUIRED	1 Check boxes (if applicable): <input type="checkbox"/> New Registration <input type="checkbox"/> Address Change <input type="checkbox"/> Party Change <input type="checkbox"/> Name Change <input type="checkbox"/> Card Replacement <input type="checkbox"/> Signature Update						OFFICIAL USE ONLY: DJS 03/19/06			
	2 Are you a citizen of the United States of America? Yes? <input type="checkbox"/> No? <input type="checkbox"/> (If no, you cannot register to vote)									
	3 <input type="checkbox"/> I affirm I am not a convicted felon, or if I am, my rights relating to voting have been restored.									
	4 <input type="checkbox"/> I affirm I have not been adjudicated mentally incapacitated with respect to voting or if I have, my competency has been restored.									
IF YOU ANSWERED NO TO QUESTION 2, OR IF YOU ARE UNABLE TO AFFIRM THE STATEMENTS IN BOXES 3 AND 4, YOU ARE INELIGIBLE TO REGISTER TO VOTE. DO NOT COMPLETE THIS APPLICATION.										
REQUIRED	5 Date of Birth (MM/DD/YYYY) / /		6 If you have a current and valid FL DL# or FL ID card#, you must provide the number in this box. If you do not have either, provide the last 4 digits of your SSN. If you have not been issued a FL DL#, FL ID card#, or SSN, write "NONE":							
	7 Last Name			Suffix (circle) I. S. II. III. IV.		First Name		Middle Name/Initial		
	8 Address Where You Live (Legal Residence) <small>enter a PO box</small>			Appt/Loc/Unit	City		County of Legal Residence		State	Zip Code
	9 Mailing Address if Different from Above			Appt/Loc/Unit	City		County		State	Zip Code
	10 Address Last Registered to Vote			Appt/Loc/Unit	City		County		State	Zip Code
	11 Former Name if Making Name Change					Day Phone Number				
	12 Party Affiliation (Check only one) <input type="checkbox"/> Democratic Party <input type="checkbox"/> Republican Party <input type="checkbox"/> Other, Minor Party (print party name):								<input type="checkbox"/> No Party Affiliation	
	13 Race/Ethnicity (Check only one) <input type="checkbox"/> American Indian/Alaskan Native <input type="checkbox"/> Asian/Pacific Islander <input type="checkbox"/> Black, not Hispanic <input type="checkbox"/> Hispanic <input type="checkbox"/> White, not Hispanic									
	14 Sex <input type="checkbox"/> M <input type="checkbox"/> F		Do you need voting assistance at the polls? <input type="checkbox"/> Yes <input type="checkbox"/> No			Are you interested in being a poll worker? <input type="checkbox"/> Yes <input type="checkbox"/> No		State or Country of Birth		
	15 Are You: <input type="checkbox"/> Active Duty Military/Merchant Marine <input type="checkbox"/> Dependent of Active Duty Military/Merchant Marine <input type="checkbox"/> U.S. Citizen Currently Residing Outside the U.S.									
REQUIRED	16 OATH: I do solemnly swear (or affirm) that I will protect and defend the Constitution of the United States and the Constitution of the State of Florida, that I am qualified to register as an elector under the Constitution and laws of the State of Florida, and that all information provided in this application is true.						SIGNATURE: Sign or mark on line in box below. (Invalid without signature or mark of applicant.)			
							X _____ Date: _____			

TO MAIL, WRITE ADDRESS OF THE OFFICE OF YOUR COUNTY SUPERVISOR OF ELECTIONS ON YOUR ENVELOPE.

Supervisor of Elections, Alachua County
P O Box 1495
Gainesville FL 32602
352-374-5232

Supervisor of Elections, Baker County
P O Box 505
Macondonia FL 32063
904-289-6339

Supervisor of Elections, Bay County
205 Wesley Drive
Tyto Haven FL 32444
850-784-6180

Supervisor of Elections, Bradford County
P O Box 58
Starke FL 32991
904-966-6266

Supervisor of Elections, Brevard County
P O Box 1119
Titusville FL 32781-1119
321-264-6740

Supervisor of Elections, Broward County
P O Box 029001
Fort Lauderdale FL 33302
954-357-7050

Supervisor of Elections, Calhoun County
20855 Central Avenue East, Room G-10
Blountstown FL 32424
850-674-6568

Supervisor of Elections, Charlotte County
P O Box 511219
Punta Gorda FL 33951-1222
941-637-2232

Supervisor of Elections, Citrus County
120 North Apollo Avenue
Inverness FL 34452
352-341-6740

Supervisor of Elections, Clay County
P O Box 237
Green Cove Springs FL 32043-0337
904-284-6130

Supervisor of Elections, Collier County
3301 Tamiami Trail E, Box Dr MK, R 060
Naples FL 34112
239-774-8450

Supervisor of Elections, Columbia County
971 West Ounal Street, Suite 102
Lake City FL 32055
386-758-1026

Supervisor of Elections, DeSoto County
P O Box 89
Arcadia FL 34265
863-993-8771

Supervisor of Elections, Dixie County
P O Box 2057
Cross City FL 32678
352-488-1216

Supervisor of Elections, Duval County
105 East Monroe Street
Jacksonville FL 32202
904-630-1410

Supervisor of Elections, Escambia County
P O Box 12691
Pensacola FL 32591
850-595-3900

Supervisor of Elections, Flagler County
P O Box 901
Bunnell FL 32110-0901
386-437-7467

Supervisor of Elections, Franklin County
33 Market Street, Suite 100
Apalachicola FL 32320
850-633-9520

Supervisor of Elections, Gadsden County
P O Box 186
Quincy FL 32353
850-627-9910

Supervisor of Elections, Gilchrist County
112 South Main Street, Room 176
Inverness FL 32653
352-463-3194

Supervisor of Elections, Glades County
P O Box 668
McKeen Town FL 33471
863-946-6005

Supervisor of Elections, Gulf County
401 Long Avenue
Port St Joe FL 32456
850-229-6117

Supervisor of Elections, Hamilton County
1133 US Hwy 41 Northwest, Suite 1
Tampa FL 32052
386-792-1426

Supervisor of Elections, Hardee County
315 North 6th Avenue, Suite 110
Wauchula FL 33873
863-773-6061

Supervisor of Elections, Hendry County
P O Box 174
Cade FL 33975
863-675-5230

Supervisor of Elections, Hernando County
20 North Main Street, Room 165
Brooksville FL 34601
352-754-4125

Supervisor of Elections, Highlands County
P O Box 3448
Selma FL 33871
863-402-6655

Supervisor of Elections, Hillsborough Co.
601 East Kennedy Blvd, 16th floor
Tampa FL 33602
813-272-5850

Supervisor of Elections, Holmes County
201 North Oklahoma Street, Ste 102
Bonifay FL 32425
850-547-1187

Supervisor of Elections, Indian River Co.
1750 25th Street
Vero Beach FL 32960
772-567-8187

Supervisor of Elections, Jackson County
P O Box 0146
Monticello FL 32447
850-482-9652

Supervisor of Elections, Jefferson County
380 West Dogwood Street
Monticello FL 32344
850-997-3338

Supervisor of Elections, Lafayette County
P O Box 76, County Courthouse
Milton FL 32066
386-294-1261

Supervisor of Elections, Lake County
P O Box 457
Tavares FL 32778-0457
352-343-9334

Supervisor of Elections, Lee County
P O Box 1545
Fort Myers FL 33902
239-533-8683

Supervisor of Elections, Leon County
P O Box 7357
Tallahassee FL 32314-7357
850-606-4016(8683)

Supervisor of Elections, Levy County
P O Box 680
Bonifay FL 32621
352-496-5103

Supervisor of Elections, Liberty County
P O Box 597
Hogol FL 32321
850-613-5226

Supervisor of Elections, Madison County
129 SW Piney Street, Room 113
Madison FL 32340
850-973-6507

Supervisor of Elections, Manatee County
P O Box 1080
Bradenton FL 34206
941-741-3823

Supervisor of Elections, Marion County
P O Box 289
Ocala FL 34476-0289
352-629-3290

Supervisor of Elections, Martin County
P O Box 1257
Stuart FL 34995
772-288-5637

Supervisor of Elections, Miami-Dade County
P O Box 521550
Doral FL 33152-1550
705-499-1011(8683)

Supervisor of Elections, Monroe County
530 Whitehead Street, Suite 101
Fry West FL 33040
305-292-3416

Supervisor of Elections, Nassau County
56135 Nassau Place, Suite 3
Tallahassee FL 32307
904-491-9500

Supervisor of Elections, Okaloosa County
1804 Lewis Turner Blvd, Suite 404
Ft Walton Beach FL 32547
850-654-7272

Supervisor of Elections, Okeechobee County
307 Washington 2nd Street
Okeechobee FL 34972
863-763-4014

Supervisor of Elections, Orange County
P O Box 562001
Orlando FL 32656
407-836-2070

Supervisor of Elections, Osceola County
P O Box 420759
Winterice FL 34742-0759
407-343-3900

Supervisor of Elections, Palm Beach Co.
P O Box 23209
West Palm Beach FL 33416
561-656-6280

Supervisor of Elections, Pasco County
P O Box 300
Dade City FL 33526-0300
352-521-4302

Supervisor of Elections, Pinellas County
315 Court Street, Room 117
Clearwater FL 33756
727-464-3551

Supervisor of Elections, Polk County
P O Box 1450
Bassett FL 33831-1460
863-534-5888

Supervisor of Elections, Putnam County
107 N 6th Street
Palatka FL 32177
386-329-0224

Supervisor of Elections, Santa Rosa Co.
6495 Canolite Street, Suite 1
Miami FL 33270
850-883-1900

Supervisor of Elections, Sarasota County
P O Box 4194
Sarasota FL 34238-4194
941-861-8600

Supervisor of Elections, Seminole County
P O Box 1479
Sanford FL 32772-1479
407-585-8183

Supervisor of Elections, St. Johns County
4455 Avenue A, Suite 101
St Augustine FL 32095
904-623-2238

Supervisor of Elections, St. Lucie County
4132 Okeechobee Road
Fort Pierce FL 34947
772-462-1500

Supervisor of Elections, Sumter County
220 East McCollum Avenue
Bushnell FL 33513
352-793-0230

Supervisor of Elections, Suwannee County
220 Pine Ave SW
New City FL 32064
386-362-2616

Supervisor of Elections, Taylor County
P O Box 1050
Frost FL 32348
800-838-3515

Supervisor of Elections, Union County
55 West Main Street, Room 406
Lake Butler FL 32054
386-496-2236

Supervisor of Elections, Volusia County
136 North Florida Avenue
DeLand FL 32720
386-736-5030

Supervisor of Elections, Wakulla County
P O Box 305
Crawfordville FL 32326-0305
850-926-7575

Supervisor of Elections, Walton County
312 College Avenue, Unit E
DeFuniak Springs FL 32435
850-832-8112

Supervisor of Elections, Washington Co.
1331 South Blvd, Suite 900
Orlando FL 32826
850-638-6130

SPECIAL IDENTIFICATION REQUIREMENTS

If you are registering by mail, you have never voted in Florida, and you have not been issued a Florida driver's license, Florida identification card, or Social Security number, you will be required to provide additional identification prior to voting the first time. To ensure that you will not have problems when you go to vote, you should provide a copy of the required identification listed below at the time you mail your voter registration application.

You may provide a copy of one of the following photo identifications (ID) that includes your name and picture:

- U.S. Passport • Employee Badge or ID • Buyers Club ID • Debit/Credit Card • Military ID • Student ID • Retirement Center ID
- Neighborhood Association ID • Public Assistance ID

Or, you may provide a copy of one of the following documents that contains your name and current residence address:

- Utility Bill • Bank Statement • Government Check • Paycheck • Other Government Document

Or, if you are one of the following persons, you are exempt from having to provide a copy of an ID at this time. These exemptions are:

- Persons 65 years of age or older • Persons with a temporary or permanent physical disability • Members of the active uniformed service or merchant marine who, by reason of such active duty, are absent from the county • Spouse or dependent of an active uniformed service member or merchant marine who, by reason of the active duty or service of the member, is absent from the county • Persons currently residing outside the U.S. who are eligible to vote in Florida

All voters are required to provide ID containing photo and signature at the time of voting in the polling place.

Without proper identification, a voter can only vote a provisional ballot.

DO NOT SEND ORIGINAL IDENTIFICATION DOCUMENTS TO THE SUPERVISOR OF ELECTIONS.