

## Determining Your Domicile

As a service member, determining where one's domicile is may be confusing. If an effort to provide clarity to this topic, the following information is provided:

- **Domicile:** The state that one views and treats as their permanent home. A domicile is the state the service member intends to eventually return to after their service requirement is completed.
- **Home of Record:** The place where the service member was living when they entered the military (or, re-enlisted in the military, if one chooses) and is not necessarily the same as the Domicile. This term is used to determine travel entitlements when one separates from the military. It has nothing to do with voting or paying taxes, registering vehicles, or any of the other privileges of state residency.
- **Residence:** Residence for service members is the act of living or staying in a specified place while performing military duties. Normally, once a person moves to another state, they must adopt that state as their legal residence. But, the Service Member's Civil Relief Act (SCRA) allows active duty service members to maintain their domicile state while physically stationed in another state. This SCRA provision protects service members from having income and personal property taxes assessed by both their domicile and the host (residence) state.

The state that a service member identifies as their domicile may be changed if there is an intent to eventually live permanently in a new state. In order for a service member to change their domicile, they must file a DD Form 2058, State of Legal Residence Certificate with their administrative office. However, filing a DD Form 2058 is not the only requirement. If requested, the service member has the burden of proving that the state indicated on that form is indeed their domicile. A combination of the following may be used to prove a person's domicile:

- Expressed intent, oral or written.
- Physical presence, past and present.
- Residence of immediate family.
- Location of schools attended by children.
- Payment of nonresident tuition to institutions.
- Payment of taxes, address on tax returns.
- Ownership of real property.
- Leasehold interests, business interests.
- Voter registration, vehicle registration.
- Ownership of burial plots.

- Motor vehicle operator's permit.
- Location of bank or investment accounts.
- Explanations for temporary changes in residence.
- Home of record at the time of entering service.
- Place of marriage, spouse's domicile.
- Declarations of domicile in affidavits or law suits.
- Place of birth.
- Declarations of residence on documents such as wills, deeds, mortgages, leases, contracts, insurance policies, and hospital records.
- Any other type of evidence acceptable by state to prove residence.

For more information on this matter, visit our office in Building 358, Presidio of Monterey. Monterey, CA or call (831) 242-5083/5084 to schedule an appointment.