

FLORIDA versus GEORGIA RESIDENCY

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Georgia Law. Under Georgia Law (O.C.G.A. 48-7-1(10)(A)): a "Resident" means:

- (i) Every individual who is a legal resident of this state on income tax day;
- (ii) Every individual who, though not necessarily a legal resident of this state, nevertheless resides within this state on a more or less regular or permanent basis and not on the temporary or transitory basis of a visitor or sojourner and who so resides within this state on income tax day; and
- (iii) Every individual who on income tax day has been residing within this state for 183 days or part-days or longer, in the aggregate, of the immediately preceding 365 day period.

(B) Every individual who, having become a resident of this state for income tax purposes under divisions (i) and (ii) of subparagraph (A) of this paragraph, is deemed to continue to be a resident of this state until the person shows to the satisfaction of the commissioner that he or she has become a legal resident or domiciliary of another state and that he or she does not come within division (iii) of subparagraph (A) of this paragraph. Upon such a showing with respect to any 12 month period immediately preceding income tax day, the person shall be taxable as a resident of this state only to the date of becoming a nonresident on an apportionment basis as prescribed in Code Section 48-7-85.

(C) Every individual who becomes a resident of this state for income tax purposes under divisions (i) and (ii) of subparagraph (A) of this paragraph for the first time during the 12 month period immediately preceding income tax day and who does not otherwise come within division (iii) of subparagraph (A) shall be taxable as a resident only from the date of becoming a resident on an apportionment basis as prescribed in Code Section 48-7-85.

State of Domicile. The question of whether or not you are no longer a Georgia resident and have become a Florida resident are "**fact-driven**" and there are no absolute assurances of the Georgia tax treatment.

Beware: Even if you are no longer a Georgia resident for Georgia income tax purposes, you may still owe Georgia income taxes on Georgia based revenue sources.

Facts Supporting Florida Residency. However, among the facts, you should create are (and the more facts on your side, the better your case):

_____ Be outside of the your former states more that 183 FULL days in a calendar year (i.e., over half the year)

- a. Keep a calendar and try and attach one receipt per day showing that you were outside the state for that day as evidence of being outside of the state for 183 days.
- b. You do not have to be in your new state for 183 days - just outside the former state for 183 days.

_____ Buy (preferably) or rent a local residence (and furnish it with furniture – empty residences don't work well)

_____ Declare a homestead exemption in your new state & terminate your former Homestead Exemption

_____ If possible, sell or transfer any real estate in your former state to family or other entities (e.g., an LLP)

- _____ If permitted by state law in your new state (e.g., Florida), go to the local Court and make a “Declaration Domicile” or similar statement in the Court records of the county of your new residency
- _____ If possible, have no salary or other earned income in your former state
- _____ Change driver’s license to your new state and surrender your old license
- _____ Change all bank accounts to your new state and do not retain any bank accounts in the former state
- _____ Move your only safety deposit box to your new state
- _____ Change vehicle registration(s) and insurance to your new state
- _____ Obtain a library card in your new state
- _____ Change social clubs and service clubs to your new state (e.g., Rotary, Kiwanis, golf club); Serve on Local Charitable Boards
- _____ Change voter registration to your new state and terminate your former voter registration
- _____ Do wills, medical directives and powers of attorney under your new state’s laws
- _____ Engage a local doctor, dentist and/or chiropractor; have medical records moved to your local doctor
- _____ Move your religious affiliation and membership to a local group in your new state; Make local contributions
- _____ Have your federal tax returns go to the your new state address – never have them go to your former address!
- _____ Have credit cards, brokerage statements and other financial related mail go to your new state address
- _____ Have any minor children attend schools in your new state
- _____ If you have own an interest in any S corporations, Partnerships or LLCs that allocates you income that is taxable in the former state, determine if the former state’s tax laws permit the entity to pay local based taxes for all non-residents and eliminate the requirement that the owners file a local non-resident return.
- _____ Focus your social, economic and other activities in the new state of residency