



## Residency Defined

In the past I have had people ask what is involved with moving to a state without an income tax. The options are few and typically do not make sense for the individuals. There are seven states currently without a state income tax and they are Alaska, Florida, Nevada, South Dakota, Texas, Washington, and Wyoming.

When approached I typically start the conversation by asking them, why.

In one case the person's mother was living in Florida in a condo he purchased for her and so he thought he could save some money. So, no sainthood for this individual.

Illinois defines a Resident under the Illinois Income Tax Act: Section 1501(a)(20)

- In IL for other than temporary or transitory purpose during taxable year
- Domiciled in IL but absent for temporary or transitory purpose during taxable year
- Estate of decedent domiciled in IL at death
- Trust created by will of decedent domiciled in IL at death
- Irrevocable trust, the grantor domiciled in IL at time trust became irrevocable

Domicile is defined as:

- Place where individual has true, fixed, permanent home and principal establishment
- Where individual intends to return whenever absent
- Present intention of making place a permanent home until some unexpected event occurs to induce him to adopt another permanent home
- Can only have one domicile at a time

Illinois Department of Revenue Regulations

Title 86: Revenue

Part 100 Income Tax

Section 100.3020 Resident (IITA Section 301)  
Chapter g Proof of residence or nonresidence  
Paragraph 1

The type and amount of proof that will be required in all cases to establish residency or nonresidency or to rebut or overcome a presumption of residence cannot be specified by a general regulation, but will depend largely on the circumstances of each particular case. The taxpayer may submit any relevant evidence to the Department for its consideration. The evidence may include, but is not limited to, affidavits and evidence of: location of spouse and dependents;

- voter registration
- automobile registration
- driver's license
- filing an income tax return as a resident of another state
- home ownership or rental agreements
- the permanent or temporary nature of work assignments in a state
- location of professional licenses
- location of medical professionals
- other healthcare providers
- accountants and attorneys
- club and/or organizational memberships and participation
- telephone and/or other utility usage over a duration of time

These factors all play a role.

But the biggest factor will be where does your money come from? How are you paid, 1099-Int, 1099-Div, 1099-R, W-2, K-1.

Do you own a business? If so where is it located? Who are its clients? If you own an Illinois based business and are an S-Corporation you have nexus, so you are responsible for Illinois taxes.

That was the case with the individual who had asked. He and his wife owned a small manufacturing/retail business. He was going to claim Florida citizenship, but not his wife. There never was a chance that this could ever work.