

Keeping It Legal

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Home Sweet Home

How to Properly Establish Legal Residency

Military members are a mobile bunch, and sometimes the state lines between where members serve and where they live can become blurred. So how does one go about establishing a legal residence? First of all, let's discuss why this matters: Your state of legal residence determines where you must pay taxes and vote, and even where your children can qualify for in-state college tuition. There can be a big difference between your tax obligations as a resident of Texas, which has no state income tax, and New York, which has income tax rates among the nation's highest.

Clearly, establishing a legal residence is important for many reasons, including tax payment. As financially advantageous as it may be for a military member to pay taxes in Texas rather than New York, members cannot negate their tax liability simply by choosing Texas on DD Form 2058, *State of Legal Residence Certificate*. In general, you must demonstrate sufficient contact with a state before you are able to establish it as your legal residence. Physical presence in the state is an important factor. If you lived in Texas at some point, and have since moved, you must maintain contact with the state in or-



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der to keep claiming it as your residence. For example, you should do things such as keep your Texas driver's license, maintain your Texas vehicle registration, and vote in Texas.

The rules are different for military spouses. The Veterans Benefits and Transition Act of 2018 amended the Servicemembers Civil Relief Act, and allows military spouses to elect the same residence as their service member spouse for tax and voting purposes. The military spouse need not have any physical presence in the state elected as their residence under this law. In other words, if a person marries a service member who has properly established Texas as their state of legal residence, the military

spouse may legally elect Texas as their residence too, even if they never set foot in Texas.

While many people use the military-specific term "home of record" interchangeably with "legal residence," the home of record does not have any significance for tax purposes. The military defines "home of record" as the state where you lived when you joined the military. Your home of record does not necessarily have to remain your legal residence throughout your military career.

If you have questions regarding how to establish a legal residence, please contact the Legal Office for assistance.
—43 AMOG/JA

MILITARY JUSTICE:

Art. 15's:

- **Misuse of GTC — SrA red. to A1C*, reprimand**
- **Drunk driving (no personal injury) — SrA red. to A1C*, reprimand, FF \$1,116x1**
- **Domestic violence (2 counts) — SSgt red. to SrA*, reprimand, FF \$1332x2**

**suspended
FF = forfeitures
Red. = reduction
ED = extra duty*

LEGAL ASSISTANCE:

POAs & NOTARIES:

- *Mon-Wed, 0800-1530*
- *Thursdays, 0900-1530 (closed at 1400 the 2d Thursday of the month)*
- *Fridays, 0800-1200*
- *No appointment needed*

WILLS/LIVING WILLS/HCPAs/ALL OTHER CIVIL:

- *Call 394-2341 or 394-1504 for an appointment*
- *For after-hours emergencies, call the Command Post (394-9000) to reach a JAG.*