



## Homestead and Domicile Considerations for Snowbirds – Ohio vs. Florida

We are often asked about the advantages and disadvantages of owning both Florida and Ohio real estate. There are two important rules that govern the analysis. Only one state can be your domicile, and only one property can be your primary residence.

A desire to minimize the payment of income tax usually drives the discussion. Your domicile will determine your tax status as well as where your estate is administered. Ohio residents pay a state and city income tax while Florida residents generally do not pay either state or city income tax. Neither Ohio nor Florida has an estate tax. In addition, your domicile will determine your eligibility for the Homestead Exemption. This article focuses on the availability of the Homestead Exemption.

### What is the Homestead Exemption?

The Homestead Exemption Credit is a form of property tax relief. In Ohio, you are eligible to receive this credit for your Ohio real estate if you are an owner occupant (i.e. you own and occupy that home as your principal place of residence on January 1 of the year you file for the credit) and you are 65 or older or permanently and totally disabled. This credit allows homeowners the potential to exempt up to \$25,000 of the market value of their home from their property taxes (or up to \$50,000 for disabled veterans). The exact savings varies depending on local tax rates in the relevant community.

If you own a home in Florida and reside in that home as your primary residence, you are likely eligible to receive the Homestead Credit on your Florida real estate taxes. This credit can reduce the taxable value of real property up to \$25,000 per year (or up to \$50,000 per year for a married

couple). In addition, increases in real estate tax assessment are capped at 3% of the prior year's assessed value. Even more, your Florida property is entitled to a high level of protection from creditors which means, with some exceptions, a creditor cannot force you into a foreclosure or other sale to satisfy a judgment.

### How Do I Qualify?

First, you must be domiciled in a state to receive the potentially available Homestead Exemption. At a high level, "domicile" is where you intend to reside permanently. In each case, it is a subjective and fact-driven analysis.



More specifically, Ohio law presumes you are domiciled in Ohio if you spend 212 "contact periods" in Ohio during a taxable year. A "contact period" is a period in which you are away overnight from your property located outside Ohio and, while away, you spend at least some portion of time of each of two consecutive days in Ohio. This presumption can be rebutted. Florida law presumes you are domiciled in Florida if you file a "Declaration of Domicile" Form in the Clerk of Court in the County in which

you reside.

Domicile is further established by the actions you take within each state. To establish domicile in a new state, you should take efforts to terminate your domicile in a prior state. Sometimes, agencies or courts will look at the address you use for voter registration and income tax purposes.

If you claim your Florida real estate as your primary residence, you cannot simultaneously claim your Ohio real estate as your primary residence – and vice versa. Doing so can result in penalties. For example, an individual took advantage of the Homestead Credit for both their Ohio and Florida real estate. Florida found out and issued an individual tax assessment against him for each year he claimed homestead in both states and also forbade him from receiving the Florida Homestead Credit at any time in the future.

Next, check with the County Auditor (Ohio) or Property Appraiser (Florida) for the specific filing requirements and deadlines.

If you have questions about this article or how domicile might affect your estate plan, do not hesitate to contact your attorney at Carlile Patchen & Murphy LLP or any attorney in the Family Wealth & Estate Planning Group. CPM has attorneys licensed in Ohio, Florida, Pennsylvania, and Indiana.