



ON THE ROAD AGAIN:  
*Counseling Clients  
Crossing State Borders*

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Materials Prepared by:

Kirsten L. Ambach ~ Stokes Lawrence, P.S.

Stephanie R. Taylor ~ Randall/Danskin, P.S.

# Residency vs. Domicile

*i.e., who gets to tax me?*

- “The domicile of a person is where he has his **true, fixed, permanent** home and principal establishment, and to which, whenever he is absent, he has the intention of returning.” In re Estate of Grauel, 70 Wn.2d 743...(1946).
- Domicile, once established, is never lost until there is a concurrence of a specific intent to abandon an old domicile, an intent to acquire a specific new domicile, and the actual physical presence in a new domicile. Idaho Admin. Code § 35.01.01.030 (2022)



# Domicile in Washington

Home mailing address

Employment, Business Ties

Voter Registration

Tax filings

Drivers License, Titles

Bank branch location

Library card

Periodicals

Memberships, medical and legal services

Place of abode (permanent vs. temporary)



Form 85 0045

Audit Division  
Estate Tax Unit  
PO Box 47474  
Olympia WA 98504-7474  
360-704-5906

## Affidavit Substantiating Decedent's State of Domicile at Death

Washington State Department of Revenue will use this affidavit to help determine the state of residency of a decedent when the state of domicile is in dispute. This affidavit should be sworn to by a person having personal knowledge of the facts (for example, surviving spouse, member of immediate family, personal representative, etc.).

[Reset form](#)

First name of decedent:  Middle:  Last:   
Date of death:  Social Security number:   
1. Decedent's primary residence at the date of death:   
City:  State:  Zip Code:  Country:   
Decedent's mailing address at the date of death:   
City:  State:  Zip Code:   
How long at this location?   
To the best of your knowledge, what state did the decedent intend to reside in until the date of his/her death?  
  
2. Did decedent reside in a nursing home in Washington (WA) at date of death?  Yes  No  
Length of stay:  Circumstances warranting stay:   
3. Did decedent own a home(s)?  Yes  No. If yes, give city and state:   
Is the home currently being rented or leased?  Yes  No  
Is the home available for rent or lease?  Yes  No  
4. On date of death, did decedent own real property, leasehold, or tangible personal property located in WA?  Yes  No  
5. Was decedent employed in WA during the last five years prior to death?  Yes  No  
6. Was decedent engaged in operating a business in Washington during the last five years prior to death?  Yes  No  
Did decedent own any part of the business?  Yes  No  
Describe decedent's participation:   
7. Location of IRS Service center the decedent's last federal income tax return was filed prior to death:  
City:  State:  On what date?   
Street address shown on return:  State:  Zip:   
8. Did decedent own or lease a motor vehicle(s)?  Yes  No  
If yes, in what states were they registered?   
9. Was decedent registered to vote?  Yes  No If yes, in what state were they registered?   
10. Did the decedent hold a driver's license at date of death?  Yes  No  
If yes, what state?

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# Washington State: The Evergreen State



## Washington State Estate Tax

For dates of death July 1, 2025 and after

* Taxable amount	Rate	Tax owed
\$0 to \$1,000,000	10%	\$10% of taxable amount
\$1,000,000 to \$2,000,000	15%	\$100,000 plus 15% of the amount over \$1,000,000
\$2,000,000 to \$3,000,000	17%	\$250,000 plus 17% of the amount over \$2,000,000
\$3,000,000 to \$4,000,000	19%	\$420,000 plus 19% of the amount over \$3,000,000
\$4,000,000 to \$6,000,000	23%	\$610,000 plus 23% of the amount over \$4,000,000
\$6,000,000 to \$7,000,000	26%	\$1,070,000 plus 26% of the amount over \$6,000,000
\$7,000,000 to \$9,000,000	30%	\$1,330,000 plus 30% of the amount over \$7,000,000
\$9,000,000 and up	35%	\$1,930,000 plus 35% of the amount over \$9,000,000

\* Taxable amount - Line 7 under Part 2 of the Estate Tax Return.

# Washington State: The Evergreen State



## Washington State Income Tax

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### Capital Gains Tax

- Sale or exchange of long-term capital assets (held >1 year).
- 7% on long term capital gains up to \$1,000,000 (after exemption); 9.9% on gains over \$1,000,000.
- Annual exemption of \$278,000 in 2025.
- Exclusions: real estate, retirement accounts, family-owned business making no more than \$10M/year, timber/livestock sale profits, commercial fishing privileges, goodwill from sale of franchised auto dealership

### Income Tax—TBD!

- “Washington Millionaires Tax” ~ Senate Bill 5846 PASSED BY SENATE
- 9.9% flat tax applied to Washington taxable income
- Taxable Income = Federal Adjusted Gross Income (with some adjustments)
- \$1,000,000 standard deduction (both single and married filers)
- Effective January 1, 2029, with inflation adjustments on the deduction beginning 2030

# Idaho: The Gem State

## Personal Income Tax

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New flat tax rate of 5.3% on income over \$15K for single filers; \$30K for married filers

Applies to Idaho Residents or Idaho-sourced Income

Residents are those domiciled in Idaho or persons who maintain a home in the state for the whole year and spend more than 270 days of the taxable year in the state



## Estate Tax

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- No estate tax
- Taxes trust income

# Oregon: *The Beaver State*



## Personal Income Tax

Applies to individuals domiciled Oregon or who maintain a permanent home in Oregon and spend more than 200 days in the state

## Estate Tax

- Applicable exclusion amount of \$1,000,000, after which a tax is imposed at the following rates:

1	2	3
\$1,000,000 - \$1,500,000	\$0.00	10.0%
\$1,500,000 - \$2,500,000	\$50,000	10.25%
\$2,500,000 - \$3,500,000	\$152,500	10.5%
\$3,500,000 - \$4,500,000	\$257,500	11.0%
\$4,500,000 - \$5,500,000	\$367,500	11.5%
\$5,500,000 - \$6,500,000	\$482,500	12.0%
\$6,500,000 - \$7,500,000	\$602,500	13.0%
\$7,500,000 - \$8,500,000	\$732,500	14.0%
\$8,500,000 - \$9,500,000	\$872,500	15.0%
\$9,500,000 +	\$1,022,500	16.0%

# California: *The Golden State*

## Personal Income Tax

### 2025 California Income Tax Brackets (Estimated)

Tax Rate <a href="#">🔗</a>	Single / Married Filing Separately	Married Filing Jointly / Surviving Spouse
1.0%	\$0 – \$11,079	\$0 – \$22,158
2.0%	\$11,079 – \$26,275	\$22,158 – \$52,550
4.0%	\$26,275 – \$41,472	\$52,550 – \$82,944
6.0%	\$41,472 – \$57,585	\$82,944 – \$115,170
8.0%	\$57,585 – \$72,781	\$115,170 – \$145,562
9.3%	\$72,781 – \$371,476	\$145,562 – \$742,952
10.3%	\$371,476 – \$445,769	\$742,952 – \$891,538
11.3%	\$445,769 – \$742,953	\$891,538 – \$1,485,906
12.3%	\$742,953+	\$1,485,906+

- To classify as a nonresident, an individual has to prove that they were in the state for less than 183 days and that their purpose for being in the state was temporary.



## Estate Tax

- No Estate Tax
- **Billionaire Wealth Tax???** TBD
- Taxes trust income

# Arizona: The Grand Canyon State



## Personal Income Tax

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- New flat tax rate of 2.5% on income over \$15,750 for single filers; \$31,500 for married filers
- Applies to Arizona Residents or AZ-sourced Income
- Residents are those domiciled in Arizona or work in AZ, are registered to vote in AZ, or have children in public school in AZ.

## Estate Tax

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- No estate tax.
- Taxes trust income.



CHOICE OF LAW – Which Law Controls?

# Conflict of Laws

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- Conflict arises when there are differences in the laws of the various jurisdictions
  - Competing Provisions
    - Community Property v. Common Law
    - State Estate Tax v. No State Estate Tax
    - State Income Tax v. No State Income Tax



# Conflict of Laws – Which Law Controls?

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- Most Significant Relationship Test

1. The needs of the interstate and international systems,
2. The relevant policies of the forum,
3. The relevant policies of other interested states and the relative interests of those states in the determination of the particular issue,
4. The protection of justified expectations,
5. The basic policies underlying the particular field of law,
6. Certainty, predictability and uniformity of result, and
7. Ease in the determination and application of the law to be applied

# Conflict of Laws – Which Law Controls?

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- Domicile
  - A place where a person is physically present and that the person regards as home.
- Situs
  - Location or position of something for a legal purpose
- Applicable Law
  - Which law (or local law) has the most significant relationship to the issue and the parties?

# Conflict of Laws – Which Law Controls?

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- Situs

- Real Property – state where the real property is located;
- Tangible Personal Property – tied to the owner's domicile (generally);
  - Moveable v. immoveable
    - Immoveable tangible personal property tied to location of underlying real property

- Trusts

- Trust Instrument Designates
- Trust Instrument is Silent
- Testamentary v. Inter-vivos
- TEDRA Proceedings – may not be by written agreement

# Conflict of Laws – Which Law Controls?

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- Applicable Law
  - Law – jurisdictions' rules for determining conflict of laws
  - Local Law – body of standards, principals and rules that the court of the state will apply in the decision of controversies brought before it.
  - Examples:
    - Real Property
    - Tangible Personal Property
    - Marital Property Rights
      - *Seizer v. Sessions*

# Conflict of Laws – Which Law Controls?

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- Full Faith and Credit
  - A judgement rendered by a court of one state, if valid, is entitled to recognition in courts of another state

# Conflict of Laws – Which Law Controls?

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- Jurisdictional Issues

- Wills

- Proper Execution
    - Holographic Wills

- Probates

- Idaho – probates must be initiated within 3 years of the decedent's date of death
    - Ancillary Probates

- Marital Status

- Intimate Committed Relationships



mine

yours

Hot Cocoa



*Common Law States:*

Assets acquired during marriage are separate property – title can control.

*Community Property States:*

Community property is generally defined as that which is not separate property – title does not control.

# Separate Property

- Property owned before marriage.
- Money earned while domiciled in a common law property state.
- Property received by gift or inheritance.
- Property agreed to be converted from community to separate.
- Property purchased with separate property.



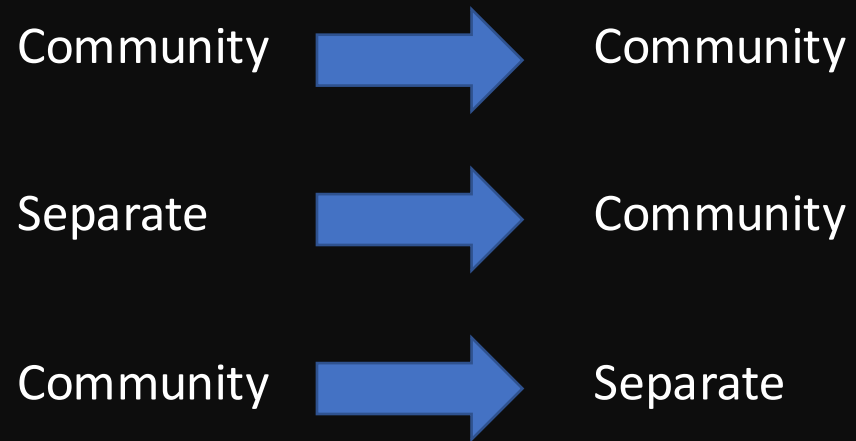
# Community Property

- Property acquired during marriage while domiciled in a community property state.
- Property converted from separate to community.
- Property that can't be identified as separate property.



# Ready to move?

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# Maintaining Community Property in a Common Law State:

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- Titling as community property
- Community property trusts
- Commingling
- Community Property Agreement prior to migration.





## Property Agreements: Not One-Size Fits All

# Property Agreements

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- Washington
  - Community Property Agreement, Prenuptial/Post Nuptial Agreements, Cohabitation Agreements
  - Signed, witnessed, acknowledged and certified in the same manner as deeds to real estate
- Idaho
  - Similar formalities to Washington; however,
    - Agreement must include a description of all real property;
    - No effective to pass title unless it is recorded, prior to the death of any party to the Agreement, in the recorder's office of the domicile and of each county in which real property described therein is located

# Tips for the Non-Resident Clients with Property in the Other Jurisdictions

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- LLCs
- Trusts
- JTROS
- Powers of Appointment
- Disclaimers

