

Moving or Buying Property in Another State?

Evaluate your Estate Plan

Have you thought about moving to another state? Or do you want to buy (or already own) property in another state? If so, you should be aware of various estate administration problems that may crop up — and why you want to avoid them by having a proper estate plan.

Moving Out of State

Many people move from one state to another for many reasons, including:

- They are retiring to a location with a more favorable climate;
- They are relocating for a new job;
- They want to live closer to family members or loved ones.

Whatever the reason, if you are moving, take a look at your current estate plan. This is especially true if you own property in various states, as we will outline below.

Various state laws can have implications for wills, marital property, executor requirements and more.

If you currently have a will and are thinking about moving, you may want to consider having a new will drafted in the state where you will have a permanent residence. *Reason:* An "in-state" will takes less effort to probate than an "out-of-state" will. In most jurisdictions, the domiciled state honors an out-of-state will. However, the probate court in most instances requires that an attorney from the previous state affirm that the will is valid.

Example: You live in State A and have a will under the laws there. Then, you move to State B to be closer to family members. The probate court in State B generally requires the proponent of the will to have an attorney in State A affirm that the will is proper under the laws there. Of course, this involves an additional cost and will create a delay in the estate administration. To avoid this, you may want to have a Will under the laws of State B. Other documents, such as a power of attorney, health care proxy or power of attorney and possibly a living will, should also be revised.

Additionally, you may want to look at your bank accounts. Banks that have branches in your home state could make it easier to help deal with the bank accounts during the administrative process. However, with banks having branches throughout many states, this should be less of a concern. The idea is to make the administration of the estate less burdensome and costly.

Owning Property in Multiple States

If you're moving to another state but still own property in the previous state, be aware that if you have an estate dispute, the estate administration will occur where you are actually "domiciled."

Example: You have property in state A but move to state B for most of the year because the weather is more favorable. You travel back and forth between the two states. Let's say you have a driver's license in State A, but you are registered to vote in State B. This could lead to complications. After your death, heirs and taxing authorities may disagree about where you actually lived. With a proper estate plan, all of your documentation would make clear the location of your permanent, principal residence.

Further, if you have real property in various states, you should be aware that your estate may have to open up what are commonly known as "ancillary proceedings" in the state where the property is located. The main probate proceeding would be in your home state, but there could be other proceedings in the state(s) where you own real property.

Finally, if you have trusts, you need to consider the law of the state that the trust follows. This could possibly affect Medicaid issues, tax issues and other state requirements.

Consult with us about these issues. If you're permanently moving out of state, it's also prudent to speak with an attorney in the state where you plan to reside.

How the IRS Determines Your Principal Residence for the Home Sale Tax Break

With the federal home sale exclusion tax break, you can keep some or all of the profit from selling a "principal residence" — if you meet certain qualifications.

Specifically, an unmarried homeowner can sell a principal residence for a gain of up to \$250,000 without owing any federal income tax (\$500,000 for married couples who file jointly).

For taxpayers with multiple homes, the IRS lists several factors relevant to determining which home is the principal residence. They include:

- The amount of time used;
- Place of employment;
- Where other family members live;
- The address used for tax returns, driver's license, car and voter registration;
- Where bills and correspondence are mailed; and
- The location of the taxpayer's banks, religious organizations or recreational clubs.

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