

Sec. 12-701(a)(1)-1. Resident of this state

(a) **General.** An individual may be a resident of Connecticut for income tax purposes, and taxable as a resident, even though he or she would not be deemed a resident for other purposes. As used in these sections, the terms “resident of this state” or “resident individual” include:

(1) all individuals domiciled in Connecticut, subject to the exceptions set forth in subsection (b) of this section; and

(2) any individual (other than an individual in the armed forces of the United States) who is not domiciled in Connecticut but who maintains a permanent place of abode in Connecticut, and spends in the aggregate more than 183 days of the taxable year in Connecticut.

(b) Certain individuals not deemed residents although domiciled in Connecticut. Any individual domiciled in Connecticut is a resident for income tax purposes for a specific taxable year, unless for that year he or she satisfies all three of the following requirements:

(1) the individual maintains no permanent place of abode inside Connecticut during such year;

(2) the individual maintains a permanent place of abode outside Connecticut during such entire year; and

(3) the individual spends in the aggregate not more than 30 days of the taxable year in Connecticut.

As long as an individual who is domiciled in Connecticut continues to meet the above requirements, such individual shall be considered a nonresident of Connecticut for income tax purposes. However, if for any taxable year those conditions are not met, an individual shall be subject to Connecticut income tax as a resident for that year. An individual who is a Connecticut domiciliary bears the burden of demonstrating that the conditions set forth above have been met when claiming to be a nonresident during the taxable year.

(c) Rules for days within and without Connecticut. In counting the number of days spent within and without Connecticut, a day spent within Connecticut includes any part of a day, except for a part of a day during which an individual is present solely while in transit to a destination outside Connecticut. An individual claiming to be a nonresident who is not domiciled in Connecticut but who has a permanent place of abode in this state shall have records available for examination by the Department to substantiate the fact that such individual spent 183 days or less within Connecticut.

(d) **Domicile.**

(1) Domicile, in general, is the place which an individual intends to be his or her permanent home and to which such individual intends to return whenever absent.

(2) A domicile once established continues until the individual moves to a new location with the bona fide intention of making his or her fixed and permanent home there. No change of domicile results from a removal to a new location if the intention is to remain there only for a limited time; this is the case even though the individual may have sold or disposed of his or her former home. The burden is upon an individual asserting a change of domicile to show that the necessary intention existed. In determining an individual's intention in this regard, declarations shall be given due weight, but they shall not be conclusive if they are contradicted by conduct. The fact that an individual registers and

votes in one place is important but not necessarily conclusive, especially if the facts indicate that he or she did this merely to escape taxation in some other place.

(3) Domicile is not dependent on citizenship; that is, an immigrant who has permanently established his or her home in Connecticut is domiciled here regardless of whether such individual has become a United States citizen or has applied for citizenship. However, a United States citizen shall not ordinarily be deemed to have changed domicile by going to a foreign country unless it is clearly shown that such individual intends to remain there permanently. For example, a United States citizen domiciled in Connecticut who goes abroad because of an assignment in connection with employment or for study, research or recreation does not lose her Connecticut domicile unless it is clearly shown that she intends to remain abroad permanently and not to return.

(4) An individual can have only one domicile. If an individual has two or more homes, the domicile is the one which the individual regards and uses as his or her permanent home. In determining an individual's intentions in this matter, the length of time customarily spent at each location is important but not necessarily conclusive.

(5) Generally, the domiciles of a husband and wife are the same; however, if they are separated the spouses may each, under some circumstances, acquire their own separate domiciles, even though no judgment or decree of separation has been rendered. A child's domicile ordinarily follows that of the parents, until the child reaches the age of self-support and actually establishes a separate domicile. Where the mother and father have separate domiciles, the domicile of the child is generally the domicile of the parent with whom the child lives for the major portion of the year. The domicile of a child for whom a guardian has been appointed is not necessarily determined by the domicile of the guardian.

(6) Federal law provides in effect that, for the purposes of taxation, a member of the armed forces is not deemed to have lost residence or domicile in any state solely by reason of being absent therefrom in compliance with military or naval orders (see the Soldiers' and Sailors' Civil Relief Act, 50 U.S.C. App. § 574). Thus, such law ensures that a member of the armed forces domiciled in Connecticut would not be deemed a domiciliary for income tax purposes of another state in which such individual is stationed, and that a member of the armed forces domiciled in another state who is stationed in Connecticut would not be deemed a domiciliary of this state. The general rule is that domicile is in no way affected by service in the armed forces. A change of domicile shall be shown by facts which objectively manifest a voluntary intention to make the new location a domicile. It is possible for a member of the armed forces to change domicile; however, the requisite intent is difficult to prove.

(7) Unlike a member of the armed forces of the United States, the civilian spouse of such member may not claim the benefits of the Soldiers' and Sailors' Civil Relief Act. The civilian spouse's residency or nonresidency may be affected by where the military spouse is stationed, if the spouses reside together.

(8) The following items shall be considered in determining whether or not an individual is domiciled in Connecticut (this list is not intended to be all-inclusive):

(A) location of domicile for prior years;

(B) where the individual votes or is registered to vote (casting an illegal vote does not establish domicile for income tax purposes);

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- (C) status as a student;
- (D) location of employment;
- (E) classification of employment as temporary or permanent;
- (F) location of newly acquired living quarters, whether owned or rented;
- (G) present status of former living quarters, i.e., whether it was sold, offered for sale, rented or available for rent to another;
- (H) whether a Connecticut veteran's exemption for real or personal property tax has been claimed;
- (I) ownership of other real property;
- (J) jurisdiction in which a valid driver's license was issued and type of license;
- (K) jurisdiction from which any professional licenses were issued;
- (L) location of the individual's union membership;
- (M) jurisdiction from which any motor vehicle registration was issued and the actual physical location of the vehicles;
- (N) whether resident or nonresident fishing or hunting licenses were purchased;
- (O) whether an income tax return has been filed, as a resident or nonresident, with Connecticut or another jurisdiction;
- (P) whether the individual has fulfilled the tax obligations required of a resident;
- (Q) location of any bank accounts, especially the location of the most active checking account;
- (R) location of other transactions with financial institutions, including rental of a safe deposit box;
- (S) location of the place of worship at which the individual is a member;
- (T) location of business relationships and the place where business is transacted;
- (U) location of social, fraternal or athletic organizations or clubs, or a lodge or country club, in which the individual is a member;
- (V) address where mail is received;
- (W) percentage of time (excluding hours of employment) that the individual is physically present in Connecticut and the percentage of time (excluding hours of employment) that the individual is physically present in each jurisdiction other than Connecticut;
- (X) location of jurisdiction from which unemployment compensation benefits are received;
- (Y) location of schools at which the individual or the individual's immediate family attend classes, and whether resident or nonresident tuition was charged;
- (Z) statements made to any insurance company concerning the individual's residence, on which the insurance is based;
- (AA) location of most professional contacts of the individual and his or her immediate family (e.g., physicians, attorneys); and
- (BB) location where pets are licensed.

Any one of the items listed shall not, by itself, determine domicile. Charitable contributions shall not be considered in determining whether an individual is domiciled in Connecticut.

(e) Permanent place of abode.

(1) A "permanent place of abode" means a dwelling place permanently maintained by

an individual, whether or not owned by or leased to such individual, and generally includes a dwelling place owned by or leased to his or her spouse. However, a “permanent place of abode” shall generally not include, during the term of a lease, a dwelling place owned by an individual who leases it to others, not related to the owner or his or her spouse by blood or marriage, for a period of at least one year, where the individual has no right to occupy any portion of the premises and does not use such premises as his or her mailing address during the term of the lease. Also, a mere camp or cottage, which is suitable and used only for vacations, is not a permanent place of abode. Furthermore, a barracks, motel room or any construction which does not contain facilities ordinarily found in a dwelling, such as facilities for cooking, bathing, etc., shall generally not be deemed a permanent place of abode. Also, a place of abode is not deemed permanent if it is maintained only during a temporary stay for the accomplishment of a particular purpose. For example, an individual domiciled in another state may be assigned to his employer’s Connecticut office for a fixed and limited period, after which he is to return to his permanent location. If such an individual uses an apartment in Connecticut during this period, he is not deemed a resident, even though he spends more than 183 days of the taxable year in Connecticut, because his place of abode is not permanent. He shall be taxable as a nonresident on his income from Connecticut sources, including his salary or other compensation for services performed in Connecticut. However, if his assignment to his employer’s Connecticut office is for an indefinite period, his Connecticut apartment shall be deemed a permanent place of abode and he shall be deemed a resident for Connecticut income tax purposes if he spends more than 183 days of the year in Connecticut. The 183-day rule applies only to individuals who are not domiciled in Connecticut.

(2) The determination of whether a member of the armed forces maintains a permanent place of abode outside Connecticut does not depend merely upon whether the individual lives on or off a military base. This is only one of many factors to be considered in determining whether a permanent place of abode is being maintained outside Connecticut. Some of the other factors include the type and location of quarters occupied by the individual (and immediate family members, if any) and how and by whom such quarters are maintained. Barracks, bachelor officers’ quarters, quarters assigned on vessels, etc., generally do not qualify as permanent places of abode maintained by a member of the armed forces. Further, the maintenance of a place of abode by a member of the armed forces outside Connecticut shall not be considered permanent if it is maintained only during a limited or temporary duty assignment (in contrast to a permanent duty assignment).

(f) While this section pertains to Section 12-701(a)(1) of the general statutes, for purposes of supplementary interpretation, as the phrase is used in Section 12-2 of the general statutes, the adoption of this section is authorized by Section 12-740(a) of the general statutes.

(Effective November 18, 1994)