How do I determine residency for PA income tax purposes?

Individuals who have domiciles or statutory residences in PA are subject to PA personal income tax on income, regardless of where income was earned. They may qualify for credits against tax paid to other states or countries on income earned outside of PA.

Individuals who do not maintain domiciles or statutory residences in PA are taxed only on income from sources within PA and cannot qualify for PA credits against taxes paid to other states or countries.

What is a domicile?

A domicile is the place where a person maintains permanent abode and intends to return when absent. A person may only have one domicile at a time. However, for an individual who lives in more than one permanent place, two factors determine domicile: (1) Which is the one place where the individual has had the greatest connections for the taxable year; and (2) Which place does the individual intend to be the domicile.

For example, a locality with the greatest connections is where a person:

• spends the greatest amount of time
• supports a spouse and children
• purchases the necessities of life
• has doctors, lawyers and accountants
• houses pets
• has active banking accounts
• worships regularly
• participates in social, fraternal or athletic organizations
• has works of art, furniture, family portraits or heirlooms
• fulfills local tax obligations
• is employed
• owns real estate fit for year-round living
• maintains a driver's license and vehicle registration
• maintains professional licenses
• maintains union membership
• declares residency for hunting or fishing licenses, income tax returns or school tuition
• conducts business
• receives mail
• receives unemployment compensation
• records his or her address for insurance policies, deeds, mortgages, leases, passport, federal and local tax returns, etc.
• was domiciled at birth
• maintains safe deposit boxes
• owns a cemetery plot

• is listed in the telephone directory
• obtains homestead exemption
• gathers for family and social events
• maintains TV and Internet connections
• registers to vote

What is a statutory residence?

A statutory residence is the place where an individual spends the most time during the year. More specialized definitions, however, apply when the person does not maintain a permanent place of residence in PA or has frequent or prolonged absences from his/her place of residence. A person is considered a statutory resident of PA unless:

• the person spends more than 181 days (midnight to midnight) outside PA; or
• the person has no permanent abode in PA for any part of the tax year.

What is a permanent abode?

A permanent abode is a house, apartment, dwelling place or other residence maintained as a household for an indefinite period, whether the occupants own it or not. An abode is not permanent if it is occupied only during a fixed or limited period of time for a particular purpose.

Barracks, bachelor officer's quarters, quarters on ships and other living accommodations provided by an employer for a definite period do not qualify as permanent abodes. Further, college dormitories, fraternity houses, sorority houses and off-campus rentals by students enrolled in college or universities do not qualify as permanent abodes.

How do I establish a new domicile?

A person can have only one domicile at a time, and it does not change until they move to another state or country with the intention of making a new permanent home there, abandoning the previous domicile.

If a person moves to another state or country, but intends to stay there only for a fixed or limited time (no matter how long), domicile does not change. Domicile is not dependent upon continuous physical presence. It is not abandoned by absence there or by presence in a former domicile, so long as there is not firm, sincere, unconditional intention of remaining in the other jurisdiction for an indefinite and uncertain period.

For example, PA domicile does not change when a person is temporarily absent – to return to a former domicile for business, health, pleasure or education – with intention to return to the PA domicile.

To establish a new domicile, a taxpayer must:

1. Show evidence of definite intention to discontinue making the former domicile the primary base of operations;
2. Show evidence of definite intention to make the new domicile the primary base of operations; and
3. The individual maintains no permanent place of abode in PA at any time during the tax year.

The Modified Extension of Sales Machinery Act (MERSAMA), which was signed into federal law on Nov. 11, 2009, permits a service member’s nonmilitary spouse to retain status as an out-of-state resident and source any nonmilitary compensation to the state of residence following the circumstances:

1. The service member must be in PA in compliance with military orders;
2. The service member’s spouse must be in PA solely to be with his/her spouse; and
3. The service member’s spouse must have the same domicile (legal residence) as the service member.

For detailed information on how MERSAMA impacts state taxation of income earned by a service member’s nonmilitary spouse, review the comprehensive personal income tax Tax Bulletin 2010-01 on the department’s website, www.revenue.state.pa.us.

For PA residents who work in reciprocal agreement states, one state will not tax a resident of the other state. These agreements apply to most W-2 compensation earned while a PA resident and received while a resident of the reciprocal compensation agreement state; or compensation paid to Ohio–pa employers who worked or performed services in PA and have 20 percent or greater interest in a PA employer is more than $8,000. The taxpayer may also file a return and apply for a refund from the other state.

What if I have dual residency?
PA residents who are also residents of reciprocal states for income tax purposes are subject to special rules. A PA resident credit may be claimed only if each of the following applies:
1. The income on which the reciprocal state’s tax is imposed is personal income tax paid to PA income tax purposes are subject to special rules. A PA resident credit may be claimed only if each of the following applies:
2. The taxpayer must report compensation as taxable income to PA and pay the tax. The taxpayer must make PA estimated payments if compensation subject to withholding is PA employee is more than $8,000. The taxpayer may also file a return and apply for a refund from the other state.

What kinds of income should part-year residents report on PA personal income tax returns?
Part-year residents are subject to PA tax on all income earned, received or credited for the part of the year they were residents of PA, as well as all income earned, received or credited from PA sources for the part of the year they were nonresidents.

Part-year residents of PA must file PA personal income tax returns for the part of the year they were residents of PA and the applicable state from the PA Department of Revenue Taxpayers’ Rights Advocate. The procedure applies before the formal appeals process is utilized (e.g., filing a petition for reassessment or refund).