

R865. Tax Commission, Auditing.

R865-9I. Income Tax.

R865-9I-2. Definitions of Resident and Military Personnel Pursuant to Utah Code Ann. Section 59-10-103.

A. "Resident" or "resident taxpayer" means "resident individual" as defined in Utah Code Ann. Section 59-10-103.

B. "Nonresident" or "nonresident taxpayer" means "nonresident individual" as defined in Utah Code Ann. Section 59-10-103.

C. "Part-year resident" means an individual who changes his status during the tax year from a resident to a nonresident or from a nonresident to a resident.

D. "Domicile" means the place where an individual has a true, fixed, permanent home and principal establishment, and to which place he has (whenever he is absent) the intention of returning. It is the place in which a person has voluntarily fixed the habitation of himself and family, not for a mere special or temporary purpose, but with the present intention of making a permanent home. After domicile has been established, two things are necessary to create a new domicile: first, an abandonment of the old domicile; and second, the intention and establishment of a new domicile. The mere intention to abandon a domicile once established is not of itself sufficient to create a new domicile; for before a person can be said to have changed his domicile, a new domicile must be shown.

E. A person in active military service shall not lose his domicile in Utah solely by reason of being absent under military orders. A person in active military service stationed in Utah solely by reason of military orders does not thereby establish a new domicile in this state for income tax purposes. Reference: Soldiers and Sailors Relief Act, Title 50, U.S. Code Section 574.

1. It is possible for an individual in active military service to change his domicile by definite intent supported by actions. He may be required to prove any change by disclosing actions taken.

2. A nonresident serviceman is tax exempt only on his active service pay; all other income is taxable as provided by the nonresident provisions of the Utah law.

3. The spouse of a person in active military service generally is considered to have that person's domicile and is subject to income tax laws and rules that apply to the service person.

Effective: 8/1/2000