

# FAQ: New Military Spouse Residency Rules

“Where are you from?” This is one of the most confusing questions you can ask a military spouse, especially when it comes to filing taxes and registering to vote.

A new law addressing those topics went into effect Dec. 31, 2018; with that law in place and with tax season upon us, here are some frequently asked questions related to military spouse residency.

**Q. I have the same state of residency as my servicemember spouse. Can I keep that state for residency, or do I have to change it with every PCS?**

You can choose to keep your state of residency, according to the [Military Spouses Residency Relief Act \(MSRRA\)](#).

**Q. My servicemember spouse is from a state I never lived in. Can I still claim that state as my residence?**

Yes. The law allows spouses to use their servicemember's state of legal residency as their own, for state and local taxes and voting purposes, “regardless of date of marriage.” That means they can “inherit” their spouse's state of legal residency without being physically present in that state.

**Q. I prefer to change my residency every PCS. Am I still allowed to do that, or do I have to take my servicemember's residency?**

You do not have to take your servicemember's residency, but you may choose to. It is entirely up to you.

**Q. My servicemember spouse and I bought a home at our last duty station, which was not in my spouse's state of residency. We've since PCS'd to a different state, and we rent out the home. Can I claim that state as legal residency, since we have established domicile there by buying a home?**

No. Buying a home does not establish domicile in a state. Domicile is established by physically residing in the state and intending to remain in it permanently.

**Q. Where can I get the bill number/law language for the new residency law?**

The text for S. 2248, the Veterans Benefits and Transition Act of 2018, lives here: <https://www.congress.gov/bill/115th-congress/senate-bill/2248/text>. Sections 302 and 303 deal with residency issues.

**Q. Do I need to change my driver's license to reflect my new state of residency?**

Maybe. Some states allow you to update your address with out-of-state addresses. However, you should check with your installation legal assistance office or local department of motor vehicles.

**Q. How do I start taking advantage of the MSRRA/new law?**

States are reviewing the changes in the law that apply to spouse residency for tax and voting purposes. Ask your installation's legal assistance office for assistance.

**Q. What if my spouse and I don't have an address in the state where we are claiming residency?**

Servicemembers can maintain legal residency in a state without a valid address so long as they have not established domicile in a new state. A state may require your service-member's DD Form 2058, State of Legal Residence Certificate ([PDF](#)), to show proof of residency without an address.

**Q. Is the new law effective for this tax season (2018 taxes)?**

Yes. Per the law, "The amendments made by subsection (a) shall apply with respect to any return of State or local income tax filed for any taxable year beginning with the taxable year that includes the date of the enactment of this Act". The Act became law Dec. 31, 2018, so you may use this for your 2018 tax prep.