

BERWITZ & DiTATA LLP

Attorneys and Counselors at Law

310 Old Country Road Suite 101
Garden City, New York 11530
Telephone (516) 747-3200 • Facsimile (516) 747-3727

Lawrence N. Berwitz

Maureen R. DiTata

SNOWBIRDS BEWARE!

Two Homes: A Question of Domicile

Some of our clients and friends have more than one home. Particularly after retirement, they divide their time between New York and a warmer or drier climate. If you have a home in more than state, it is necessary to determine your legal domicile and to ensure that it is properly established.

Domicile is the state in which you maintain your permanent home. To establish domicile, you must be physically present within the state and have the intention of making it your permanent residence. While a person may have multiple “residences,” or places where they reside, they should have but one domicile.

Your choice of domicile is critical to estate planning, estate and gift taxation and even income tax. If domicile is unclear, more than one state may claim the right to tax. Not all states define property ownership the same way and in some states marital status may have an affect on ownership. The concept of domicile is particularly important to estate planning. Rules that apply to executors, trustees and administrators are governed by state law. Disastrous tax consequences can result, for example, if taxes are assessed in an unintended state.

Domicile can be established in a variety of ways. Generally, the length of time you spend in a state is not determinative. Where you vote, where your driver’s license is issued, the address listed in your last passport and the address listed in your last will and testament are all indications of domicile. The location of the majority of your assets and your important personal property may also be of significance. If you spend time each year in two or more states, or routinely move between states at different seasons, it may be extremely important to document your domicile consistently.