



Ohio Administrative Code

Rule 5703-7-16 Personal income tax: determination of resident status.

Effective: August 27, 2021

(A) The following factors shall not be considered when determining an individual taxpayer's domicile under division (C) or (D) of section 5747.24 of the Revised Code:

- (1) The location of financial institutions in which the taxpayer has any accounts, including, but not limited to, checking, savings, certificates of deposit, or individual retirement accounts.
- (2) The location of issuers of credit cards, institutional lenders which have made loans, or any other persons making installment loans to, or guaranteed by, the taxpayer.
- (3) The location of a business at which the taxpayer makes purchases of tangible personal property.
- (4) The location of investment facilities, brokerage firms, realtors, financial advisors or consultants used by the taxpayer.
- (5) The location of either the insurance company that issued or the insurance agent that sold any insurance policy to the taxpayer.
- (6) The location of professionals utilized by the taxpayer for legal, tax, accounting, financial, medical, veterinary, or retirement services.
- (7) The location or identity of recipients of political contributions made by the taxpayer.
- (8) The location of organizations described in section 501(c) of the Internal Revenue Code, except organizations described in paragraphs (2), (7), and (10) of that section, to which the taxpayer makes contributions or other payments, or in which the taxpayer participates as a congregant, member, board member, committee member, adviser, or consultant provided that participation does not exceed attendance at more than twelve meetings or functions of any one such organization during a calendar year.



(9) The location of funeral facilities or the burial plot of the taxpayer.

(10)

(a) The location, place of business, or place of organization or incorporation of business ventures or business entities in which the taxpayer holds an ownership interest or board membership unless the taxpayer exercises significant control over the affairs of the venture or entity.

(b) A taxpayer "exercises significant control over the affairs of the venture or entity" if the taxpayer directly, indirectly, constructively under section 1563(e) of the Internal Revenue Code, or beneficially owns more than five percent in the capital, profits, or value of the business venture or business entity.

(11) The location where the taxpayer married.

(12) The recitation of residency or domicile in a will, trust, or other estate planning document of the taxpayer.

(13) The location of the taxpayer's friends, dependents as defined in section 152 of the Internal Revenue Code, and family members other than his or her spouse, if not legally separated from his or her spouse under a decree of divorce or separate maintenance as provided in section 7703(a)(2) of the Internal Revenue Code.

(14) The location of educational institutions attended by the taxpayer's dependents as defined in section 152 of the Internal Revenue Code, unless those dependents pay tuition at that educational institution based on the residency of the taxpayer in the state where the educational institution is located.

(15) The location of trustees, executors, guardians, or other fiduciaries named in estate planning documents of the taxpayer.

(B) The following factors may be considered in determining an individual taxpayer's domicile under



division (C) or (D) of section 5747.24 of the Revised Code:

- (1) The number of contact periods the taxpayer has in this state.
- (2) The taxpayer's activities in tax years other than the tax year or years at issue.
- (3) The failure of the taxpayer to meet any of the requirements of division (B)(1) of section 5747.24 of the Revised Code.
- (4) The jurisdiction in which the taxpayer is registered to vote.
- (5) Any other fact the tax commissioner deems relevant, except those set forth in paragraph (A) of this rule.

(C)

- (1) An individual taxpayer can support his or her claim of the number of contact periods in this state by oral or written statements or by writings or recordings. The absence of writings or recordings shall not prevent the individual from supporting his or her claims of the number of contact periods and meeting the individual's burden of proof, but such evidence shall be subject to review for veracity and credibility for determining whether the individual has met the burden of proof.
- (2) The tax commissioner can request that any statement offered by the individual be made under penalty of perjury, and any such statement which the individual cannot or will not make under penalty of perjury shall be given no weight and shall not be considered by the tax commissioner as evidence which would otherwise allow the individual to meet or help meet the individual's burden of proof.
- (3) The types of "writings or recordings" that an individual can submit to prove the number of contact periods in this state include, but are not limited to, the following:
 - (a) Receipts or financial statements that show the taxpayer's location at a certain time.



- (b) Personal diaries, calendars or expense reports for business travel created contemporaneously with the events they show.
 - (c) Transportation tickets or receipts, travel vouchers, or travel logs.
 - (d) Payroll records generated by the taxpayer's employer.
 - (e) Evidence of in-person use of club facilities or memberships.
 - (f) Utility bills, statements, and notices related to a specific location.
 - (g) Photographs and video recordings that show the taxpayer's location at a certain time.
 - (h) Health care practitioner billing statements for in-person services provided.
 - (i) School attendance records for in-person classes or instruction.
 - (j) Minutes of meetings of any organization that show the taxpayer's in-person attendance.
 - (k) Any public records that show the taxpayer's location at a certain time.
 - (l) Armed services records, including military orders.
- (D) As used in this rule, "Internal Revenue Code" has the same meaning and effective date as described in division (A) of section 5701.11 of the Revised Code.