



Ohio Revised Code

Section 5747.24 Presumption of domicile.

Effective: April 4, 2007

Legislation: House Bill 73 - 126th General Assembly

This section is to be applied solely for the purposes of Chapters 5747. and 5748. of the Revised Code.

(A) As used in this section:

(1) An individual "has one contact period in this state" if the individual is away overnight from the individual's abode located outside this state and while away overnight from that abode spends at least some portion, however minimal, of each of two consecutive days in this state.

(2) An individual is considered to be "away overnight from the individual's abode located outside this state" if the individual is away from the individual's abode located outside this state for a continuous period of time, however minimal, beginning at any time on one day and ending at any time on the next day.

(B)(1) Except as provided in division (B)(2) of this section, an individual who during a taxable year has no more than one hundred eighty-two contact periods in this state, which need not be consecutive, and who during the entire taxable year has at least one abode outside this state, is presumed to be not domiciled in this state during the taxable year if, on or before the fifteenth day of the fourth month following the close of the taxable year, the individual files with the tax commissioner, on the form prescribed by the commissioner, a statement from the individual verifying that the individual was not domiciled in this state under this division during the taxable year. In the statement, the individual shall verify both of the following:

(a) During the entire taxable year, the individual was not domiciled in this state;

(b) During the entire taxable year, the individual had at least one abode outside this state. The individual shall specify in the statement the location of each such abode outside this state.



The presumption that the individual was not domiciled in this state is irrebuttable unless the individual fails to timely file the statement as required or makes a false statement. If the individual fails to file the statement as required or makes a false statement, the individual is presumed under division (C) of this section to have been domiciled in this state the entire taxable year.

In the case of an individual who dies before the statement would otherwise be due, the personal representative of the estate of the deceased individual may comply with this division by making to the best of the representative's knowledge and belief the statement under division (B)(1) of this section with respect to the deceased individual, and filing the statement with the commissioner within the later of the date the statement would otherwise be due or sixty days after the date of the individual's death.

An individual or personal representative of an estate who knowingly makes a false statement under division (B)(1) of this section is guilty of perjury under section 2921.11 of the Revised Code.

(2) Division (B) of this section does not apply to an individual changing domicile from or to this state during the taxable year. Such an individual is domiciled in this state for that portion of the taxable year before or after the change, as applicable.

(C) An individual who during a taxable year has fewer than one hundred eighty-three contact periods in this state, which need not be consecutive, and who is not irrebuttably presumed under division (B) of this section to be not domiciled in this state with respect to that taxable year, is presumed to be domiciled in this state for the entire taxable year, except as provided in division (B)(2) of this section. An individual can rebut this presumption for any portion of the taxable year only with a preponderance of the evidence to the contrary. An individual who rebuts the presumption under this division for any portion of the taxable year is presumed to be domiciled in this state for the remainder of the taxable year for which the individual does not provide a preponderance of the evidence to the contrary.

(D) An individual who during a taxable year has at least one hundred eighty-three contact periods in this state, which need not be consecutive, is presumed to be domiciled in this state for the entire taxable year, except as provided in division (B)(2) of this section. An individual can rebut this presumption for any portion of the taxable year only with clear and convincing evidence to the



contrary. An individual who rebuts the presumption under this division for any portion of the taxable year is presumed to be domiciled in this state for the remainder of the taxable year for which the individual does not provide clear and convincing evidence to the contrary.

(E) If the tax commissioner challenges the number of contact periods an individual claims to have in this state during a taxable year, the individual bears the burden of proof to verify such number, by a preponderance of the evidence. An individual challenged by the commissioner is presumed to have a contact period in this state for any period for which the individual does not prove by a preponderance of the evidence that the individual had no such contact period.