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Changing One's Domicile-- More Complicated than You Think

You might think that changing one's domicile would be a simple thing to do. However, if you think you are going to fool the IRS with living half the time in one state and half the time in another state, think again. The IRS has had plenty of experience with people who try to mix the advantages of living in two different states. So what must be done to change one's domicile? It can vary from state to state, so it probably would be helpful to start with a definition of domicile. Black's Law Dictionary defines domicile as: "The place at which a person has been physically present and that the person regards as home; a person's true, fixed, principal, and permanent home, to which that person intends to return and remain even though currently residing elsewhere."

Probably, the best advice for anyone contemplating changing their domicile is: be consistent about your records. Make sure if you change your driver's license, place of voting, etc. that you also file your tax return from the state that you are claiming as your domicile. The IRS or the state in question will look at inconsistencies such as this. It is also recommended that you disengage, as much as possible, from the previous state by resigning from club memberships, obtaining a healthcare provider in the new state, and opening bank accounts in the new state. This is the level of consistency that will be necessary to establish domicile from one state to another. It is called establishing "one's center of affairs" vs. "documentary evidence." (Francis B. Brogan, Jr and Brandon A. S. Ross, "Changing State of Domicile Is Easier Said Than Done, Estate Planning, July 2012).

Changing One's Domicile--More Complicated than You Think (con't.)

While this may seem absurd, there are court cases in which these very things were not done. For example, there is an Illinois case in which someone tried to establish Florida residency. Although he continued to work in Illinois, he did own a condominium in Florida. When he filed his federal tax return, however, he used his Illinois address. Also, when registering for a Florida driver's license and registering to vote, he used his parents' address in Florida, rather than the address of his condominium. Not surprisingly, the Illinois Department of Revenue found contradictory evidence for someone trying to change his state of domicile. It was ruled that he was an Illinois domiciliary. (Brogan and Ross, see above)

So in deciding whether or not to change one's state of domicile, one may want to consult an Elder Law Attorney to weigh the advantages and disadvantages of such a move. States such as Florida and Virginia do offer the benefit of permitting an irrevocable trust to be decanted into another trust. This allows assets from an irrevocable trust that is no longer working as intended to be transferred to an existing or new trust. Florida, however, does not recognize same-sex marriage. States like Massachusetts and New York do. In Florida, then, one of the partners in a same-sex couple would not be able to serve as a personal representative of their partner's estate after the spouse's death. (Brogan and Ross, see above) Some states have income or death taxes, while others do not. In conclusion, one should carefully weigh the costs and benefits of moving to a new state, especially toward the end of life.

ASK KIT KAT: Are Chocolate and Onions Poisonous to Pets

Hook Law Center.: Kit Kat, are chocolate and onions poisonous to pets?

Kit Kat: Well, yes, but it also depends on the amount eaten and the size of the animal. Let's start with chocolate.

According to Dr. Brutlag of the Pet Poison Helpline, chocolate has a chemical called theobromine, that dogs and cats can't tolerate as well as humans. It probably won't kill them, but it can cause them to become very agitated, active, and pant a lot. If a large quantity (2-3 ounces of baking chocolate, for example) is ingested, they could even suffer a heart attack or have a seizure. Also, dark chocolate is worse than milk chocolate for pets. It has more theobromine;

ASK KIT KAT: Are Chocolate and Onions Poisonous to Pets (con't)

therefore, it is more poisonous. Now we cats don't seem to be interested in chocolate, so they usually don't have a problem with it. (Catherine Price, "What's Going on Inside your Pet's Head?" Parade Magazine, July 8, 2012).

As far as onions and their plant relatives of garlic, leeks, and chives, these are highly poisonous to pets, especially cats. Cats like to chew on plants and grass, and so they think the onions, etc. are just as harmless. And it doesn't matter whether the onions, etc. are fresh, frozen, cooked, or freeze-dried. They're equally poisonous. What these foods do is harm the animal's red blood cells. A sign that the cat may have eaten one of these inappropriate foods is that the cat will become extremely lethargic for 1-3 days. At worst, the cat could even need a blood transfusion. (Price, see above)

So watch your pets carefully! Like a child, they need to be supervised. Remember not to leave any of these foods out where they can get them.

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Upcoming Seminars

Hook Law Center is presenting a Veterans Aid & Attendance Seminar on September 27th at Churchland House, 4916 West Norfolk Road, Portsmouth, Virginia 23703. To R.S.V.P. for this seminar, please call 757-483-1780 or 757-399-7506. For more information on other upcoming seminars, please visit hooklawcenter.com/resources/upcoming-seminars.html or call (757) 399-7506.

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