

The Snowbird's Guide to Estate Planning: Protecting Your Legacy Across State Lines

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Snowbirds need a comprehensive estate plan that addresses their unique circumstances. This checklist covers key considerations including domicile, taxes and ensuring health care wishes are respected.

By Kelsey Simasko

Those of us living in the Midwest are no stranger to 'snowbirding.' Snowbirds are people who split their time between two different states, typically fleeing from states with brutally cold winters to states with warmer climates. Due to the increased free-time and money, a majority of snowbirds are also retirees. So what considerations should you make in regard to your estate plan if you anticipate being a snowbird in retirement?

Understand Establishing Domicile for Retirement Income Tax Purposes

Establishing domicile means identifying the state where you intend to return to or consider your permanent home. Some legal factors that can help establish domicile are the location of your primary residence, where you're registered to vote, the state in which you're licensed to drive or in which you receive medical treatment. Establishing domicile is crucial primarily for income tax planning purposes. With retirement specifically, each state has different rules when it comes to taxing retirement income via pensions, Social Security benefits, IRA distributions or a combination of these. While federal taxes remain the same no matter which state you live in, it's imperative you understand how your retirement income will be taxed in the state of your primary residence.

Generally speaking, most states consider you a full-time resident if you spend at least 183 days there during the taxable year. According to 2024 information from Intuit TurboTax, Alaska, Florida, Nevada, South Dakota, Tennessee, Texas, Washington and Wyoming do not tax income whatsoever. This includes distributions from 401(k) plans and IRAs.

Considerations for Purchasing Property in Another State

As a snowbird in retirement, you may decide to purchase a second home in the state where you're choosing to spend your winter months. But simply being able to afford a second home doesn't necessarily mean you should buy one. Instead, you need to make sure you can also afford all the other expenses that come with home ownership such as mortgage payments, utilities, maintenance, potential HOA fees and arguably the most important, property taxes. Each state, county and township have different property tax rates and there are various tax provisions depending on how the home is used, i.e., rental property versus personal residence. Before making your purchase, consult with a team of licensed experts including a realtor, financial adviser and a tax professional who are based in the state where you'd like to purchase the home before making your decision.

Where Should I Create My Estate Plan?

The estate plan should be made in the state where most of your property is owned. Let's say you rent a condo in Florida during the winter months, but you own a home and do your banking in Michigan. Your estate plan should be made in Michigan, yet accessible to Florida. If you own property in both Michigan and Florida, you'll either need to hire an estate planning attorney licensed and based in each state or licensed in both locations to help manage those affairs. This is due largely to state-specific property ownership guidelines. In these cases, the use of trusts, specifically revocable trusts, can be helpful in navigating property management as both properties can be held within the same trust. This simplifies the estate administration process and potentially allows your heirs to avoid ancillary probate.

In addition to property management, other estate planning documents such as wills, powers of attorney and health care directives must be valid in all states in which you reside. Depending on your specific situation, it may be necessary to consider having separate documents for each state. This is especially important when it comes to the health care portion of your estate plan. As you age, you may become incapacitated in a state other than your primary residence. Should this happen, you'll need to legally consent and appoint a medical power of attorney who can make medical decisions on your behalf.

Living as a snowbird in retirement can be one of the best ways to spend your golden years. And while it sounds like a lot of fun, becoming a snowbird involves a lot of financial and legal preparation and consideration. If you're planning to become a snowbird in retirement, start meeting with a financial professional as soon as possible to establish the financial goals necessary to help you achieve and maintain your standard of living. You'll also want

to meet with an estate planner to ensure your estate plan is thorough and valid in all locations where you spend a significant amount of time.

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Kelsey Simasko is an associate attorney at the Simasko Law firm, where she specializes in elder law and wealth preservation. She follows in the footsteps of her late grandfather, Leonard J. Simasko, who started the firm in 1955, as well as her uncle, James M. Simasko and father, Patrick M. Simasko – partners of the Simasko Law firm. Kelsey has been featured in CBS MoneyWatch, U.S. News & World Report, USA Today, Yahoo Finance and The Wall Street Journal.
