



## Ohio Revised Code

### Section 5747.24 Presumption of domicile.

Effective: September 13, 2018

Legislation: House Bill 292 - 132nd General Assembly

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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)(4) of this section, an individual is presumed to be not domiciled in this state for the entirety of any taxable year for which the individual files a statement with the tax commissioner under division (B)(2) of this section and meets all of the following requirements:

(a) The individual has no more than two hundred twelve contact periods in this state, which need not be consecutive, during the taxable year.

(b) The individual, during the entire taxable year, has at least one abode outside this state for which the individual did not claim a depreciation deduction under section 167 of the Internal Revenue Code on the individual's federal income tax return for the taxable year.

(c) The individual did not hold a valid Ohio driver's license or identification card at any time during the taxable year. An individual shall not be deemed to have held a valid Ohio driver's license or



identification card for the purposes of this division if, before the beginning of the taxable year, the individual surrendered the license or card to the bureau of motor vehicles or to the motor vehicle licensing authority of a jurisdiction outside this state. As used in division (B)(1)(c) of this section, "driver's license" and "identification card" have the same meanings as in section 4507.01 of the Revised Code.

(d) The individual did not receive a reduction in real property taxes under section 323.152 of the Revised Code or a reduction in manufactured home taxes under section 4503.065 of the Revised Code, based on the individual's occupation of an abode in this state, for a property tax year the tax lien date of which is included in the taxable year.

(e) If the individual attended or was enrolled in a state institution of higher education, as defined in section 3345.011 of the Revised Code, in this state at any time during the taxable year, the amount of tuition charged or incurred for such attendance or enrollment was not based on an abode being located in this state.

(2) On or before the fifteenth day of the tenth month following the close of the taxable year, an individual that meets the requirements prescribed by division (B)(1) of this section may file with the tax commissioner, on the form prescribed by the commissioner, a statement from the individual verifying that the individual meets such requirements.

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 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 this division is guilty of perjury under section 2921.11 of the Revised Code.

(3) The presumption that the individual was not domiciled in this state is irrebuttable unless the statement filed under division (B)(2) of this section is false with respect to the requirements prescribed by division (B)(1) of this section. If the individual or personal representative of an estate



fails to file such a statement or the statement is false, the individual is presumed under division (C) or (D) of this section to have been domiciled in this state the entire taxable year.

(4) Division (B) of this section does not apply to an individual whose domicile with respect to this state changes 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 two hundred thirteen contact periods in this state, which need not be consecutive, who has an abode in this state at any time during that taxable year, 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)(4) 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 two hundred thirteen contact periods in this state, which need not be consecutive, and who has an abode in this state at any time during that taxable year is presumed to be domiciled in this state for the entire taxable year, except as provided in division (B)(4) 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.