

## **How is State Residency Determined?**

Individuals are free to choose the state in which they are considered a resident. However, the ultimate conclusion of whether an individual is a resident of a particular state is not entirely up to them. Every state in the country will apply a test, or a set of factors, to determine if an individual is a state resident. These tests are not uniform, but there are a number of factors that are generally consistent from state to state.

Generally, a state's department of revenue will provide an exhaustive list of factors used to determine whether an individual is a state resident. Some of the factors states commonly utilize to determine if an individual is a state resident include:

- In what state do you receive your mail
- Where do you receive professional services from accountants, attorneys, or doctors
- Whether the person has fixed habitation in a state;
- Does the individual intend to return to or reside in the state;
- In which state is your automobile registered
- In which state do you hold a driver's license
- Where is your voting residence
- Payment of personal property taxes
- Do you or your spouse rent, own, maintain, or occupy a residence suitable for year-round use that is equipped with cooking and bathing facilities
- Where do you attend church
- Location of employment
- Number of days you are physically in the state; or
- Whether you maintain a permanent abode within the state

In South Dakota, the general rule is that an individual is a resident provided he or she has a residence in the state and intends to remain here. The following are indications of South Dakota residence and steps that individuals should take to confirm South Dakota residency: maintenance of a permanent home, car registration, driver's license, voting registration, and payment of personal property taxes. However, just because you qualify as a resident of South Dakota, does not mean you won't be considered a resident of another state. You should consult a local attorney. Each state uses its own factors in determining residency and each individual should consult with a local attorney or tax professional regarding any questions about their residency. If you have any questions regarding South Dakota residency requirements feel free to contact the Attorneys at Davenport, Evans, Hurwitz & Smith.