



Permanent Place of Abode

Introduction

Whether you are considered a New York State resident or nonresident for personal income tax purposes depends, in some instances, on whether you maintain a permanent place of abode inside or outside the state. For example, if you are domiciled outside New York State, but you maintain a permanent place of abode in New York State, you are a resident for income tax purposes if you spend 184 or more days in New York State.

This bulletin explains what is meant by the term *permanent place of abode* and what it means to *maintain* a permanent place of abode.

The information in this bulletin also applies in determining whether you are maintaining a permanent place of abode inside or outside New York City or the City of Yonkers for the purposes of those cities' personal income taxes.

For an explanation of who is considered a resident or a nonresident, see [income tax definitions](#).

What is a permanent place of abode?

In general, a *permanent place of abode* is a residence (a building or structure where a person can live) that:

- you maintain, whether you own it or not; and
- that is suitable for year-round use.

It is possible for you to have more than one permanent place of abode. Additionally, a permanent place of abode generally includes a residence your spouse owns or leases.

A structure that is not suitable for year-round use and that you use only for vacations is not a permanent place of abode. Also, a barracks or any structure that does not contain facilities ordinarily found in a dwelling, such as facilities for cooking, bathing, etc., is not generally considered to be a permanent place of abode.

What does maintaining a permanent place of abode mean?

You are *maintaining a permanent place of abode* if:

- the place of abode meets the physical characteristics described above; and
- you maintain it for substantially all of the tax year (disregarding small portions of the year).

You maintain a place of abode by doing whatever is necessary to continue your living arrangements in that place. In most cases, this means that you own or lease the place where you live. However, if you do not own or lease the place where you live, you are

considered to be maintaining it if you are making contributions to the household, in the form of money, services, or other contributions.

If you maintain a place of abode that meets the physical characteristics described above, and you can stay there whenever you want, you are maintaining a permanent place of abode, even if you only stay there occasionally.

Generally, you *maintain a permanent place of abode for substantially all of the tax year* if you maintain it for more than eleven months during the year. Examples of instances when you may not be maintaining a place for more than eleven months are when:

- you first lease or purchase a place of abode during the tax year; or
- you terminate the lease or sell a place of abode during the tax year.

Corporate apartments

If your employer maintains an apartment (or other living quarters) that is suitable for year-round use, and it is maintained primarily for your or your family's use, then it is considered your permanent place of abode. However, a corporate apartment will not be considered as your permanent place of abode if you are but one of many people using the apartment, and:

- use of the corporate apartment is determined by your employer on a first-come, first-served basis, or other similar arrangements; or
- other users of the apartment (for example, important clients) have priority over your use of the apartment.

Exception for a residence maintained by certain college students

A residence maintained by a full-time student enrolled at an institution of higher education in an undergraduate degree program leading to a baccalaureate degree and occupied by the student while attending the institution is not a permanent place of abode with respect to that student. For additional information, see [TSB-M-09\(15\)](#), *Amendment to the Definition of Permanent Place of Abode in the Personal Income Tax Regulations Relating to Certain Undergraduate Students*.

Military personnel and their spouses

Special rules apply to active duty military personnel and their spouses; see [Publication 361](#), *New York State Income Tax Information for Military Personnel and Veterans*.

Examples of what is considered a permanent place of abode

Example 1: Clyde owns and maintains a home for himself located on a street that runs along a beach. The home includes a kitchen and bathroom and is suitable for year-round use. Therefore, it is considered a permanent place of abode. This is the case even if Clyde spends only a limited amount of time in the home or uses it only for vacations.

Example 2: Martha owns a cabin in the mountains. The cabin is only suitable for use during the warmer months of the year because it does not have adequate insulation or heating for winter use. Therefore, it is not considered a permanent place of abode.

Example 3: Pat lives in an apartment with Alex during the work week. Although only Alex's name is on the lease, Pat regularly gives Alex money to pay for his share of the household expenses. Pat has lived in the apartment for four years. Since Pat

makes monetary contributions to maintain his living arrangement in the apartment, the apartment would be considered a permanent place of abode for Pat.

Example 4: Sarah owns a home for herself located on a lake. The home includes a kitchen and bathroom and is suitable for year-round use. Sarah rents out the home for 6 months during the year to a tenant, and during the rental period Sarah cannot use the home for her or her family's use. The home would not be considered a permanent place of abode for Sarah for the tax year since she does not maintain it for more than eleven months during the tax year.

Recordkeeping reminder

It is important that you keep records of the time you spend inside and outside the state if you are:

- domiciled in New York State and maintain a permanent place of abode outside of New York State, or
- domiciled in another state but maintain a permanent place of abode inside New York State.

Note: A Tax Bulletin is an informational document designed to provide general guidance in simplified language on a topic of interest to taxpayers. It is accurate as of the date issued. However, taxpayers should be aware that subsequent changes in the Tax Law or its interpretation may affect the accuracy of a Tax Bulletin. The information provided in this document does not cover every situation and is not intended to replace the law or change its meaning.

References and other useful information

Tax Law: Section 605(b)

Regulations: Section 105.20

Publications:

[Publication 361](#), *New York State Income Tax Information for Military Personnel and Veterans*

Memoranda:

[TSB-M-09\(15\)I](#), *Amendment to the Definition of Permanent Place of Abode in the Personal Income Tax Regulations Relating to Certain Undergraduate Students.*