

STATE OF CALIFORNIA Franchise Tax Board

Franchise Tax Board

California Tax Workshop for Nonresident Scholars and Researchers

- Charlotte Carroll & Joyce Davis
- February / March 2023

Program Agenda

- California Residency Laws
- Items taxed by California
- Taxation of fellowships, stipends and scholarships
- State & Federal Differences
- Calculation of California tax
- Example: Prepare a Tax Return

Do I Have to File?

· California has a minimum filing requirement.

See: Do I have to File?

 If you've had money withheld, you must file to receive a refund.



Do I Have to File?

Steps to Determine Filing Requirement

If you are a nonresident of California and received income in 2022 with sources in California, go to Step 1. For more details see page 8.

Step 1: Is your gross income (gross income is computed under California law and consists of all income received from all sources in the form of money, goods, property, and services, that are not exempt from tax) more than the amount shown in the California Gross Income chart below for your filing status, age, and

number of dependents? If yes, you have a filing requirement. If no, go to Step 2.

Step 2: Is your adjusted gross income (adjusted gross income is computed under California law and consists of your federal adjusted gross income from all sources, reduced or increased by all California income adjustments) more

than the amount shown in the California Adjusted Gross Income chart below for your filing status, age, and number of dependents? If yes, you have a filing requirement. If no, go to Step 3.

Step 3: If your income is less than the amounts on the chart you may still have a filing requirement. See "Requirements for Children with Investment Income" and "Other Situations When You Must File." Do those instructions apply to you? If yes, you have a filing requirement. If no, go to Step 4.

Step 4: Are you married/RDP filing separately with separate property income? If no, you do not have a filing requirement. If yes, prepare a tax return. If you owe tax, you have a filing requirement.

Active duty military personnel, get FTB Pub. 1032, Tax Information for Military Personnel.

On 12/31/22,	and on 12/31/22, my age was: (If your 65th birthday is on	California Gross Income Dependents			California Adjusted Gross Income Dependents		
my filing status was:							
	January 1, 2023, you are considered to be age 65 on December 31, 2022)	0	1	or more	0	1	or more
Single or Head of household	Under 65 65 or older	20,913 27,913	35,346 38,738	46,171 47,398	16,730 23,730	31,163 34,555	41,988 43,215
Married/RDP filing jointly Married/RDP filing separately (The income of both spouses/RDPs must be combined; both spouses/RDPs may be required to file a tax return even if only one spouse/RDP had income over the amounts listed.)	Under 65 (both spouses/RDPs) 65 or older (one spouse/RDP) 65 or older (both spouses/RDPs)	41,830 48,830 55,830	56,263 59,655 66,655	67,088 68,315 75,315	33,466 40,466 47,466	47,899 51,291 58,291	58,724 59,951 66,951
Qualifying surviving spouse/RDP	Under 65 65 or older		35,346 38,738	46,171 47,398		31,163 34,555	41,988 43,215
Dependent of another person – Any filing status	Any age			eduction (Use on page 11 to			

Who is a Resident?

Definition of Resident:

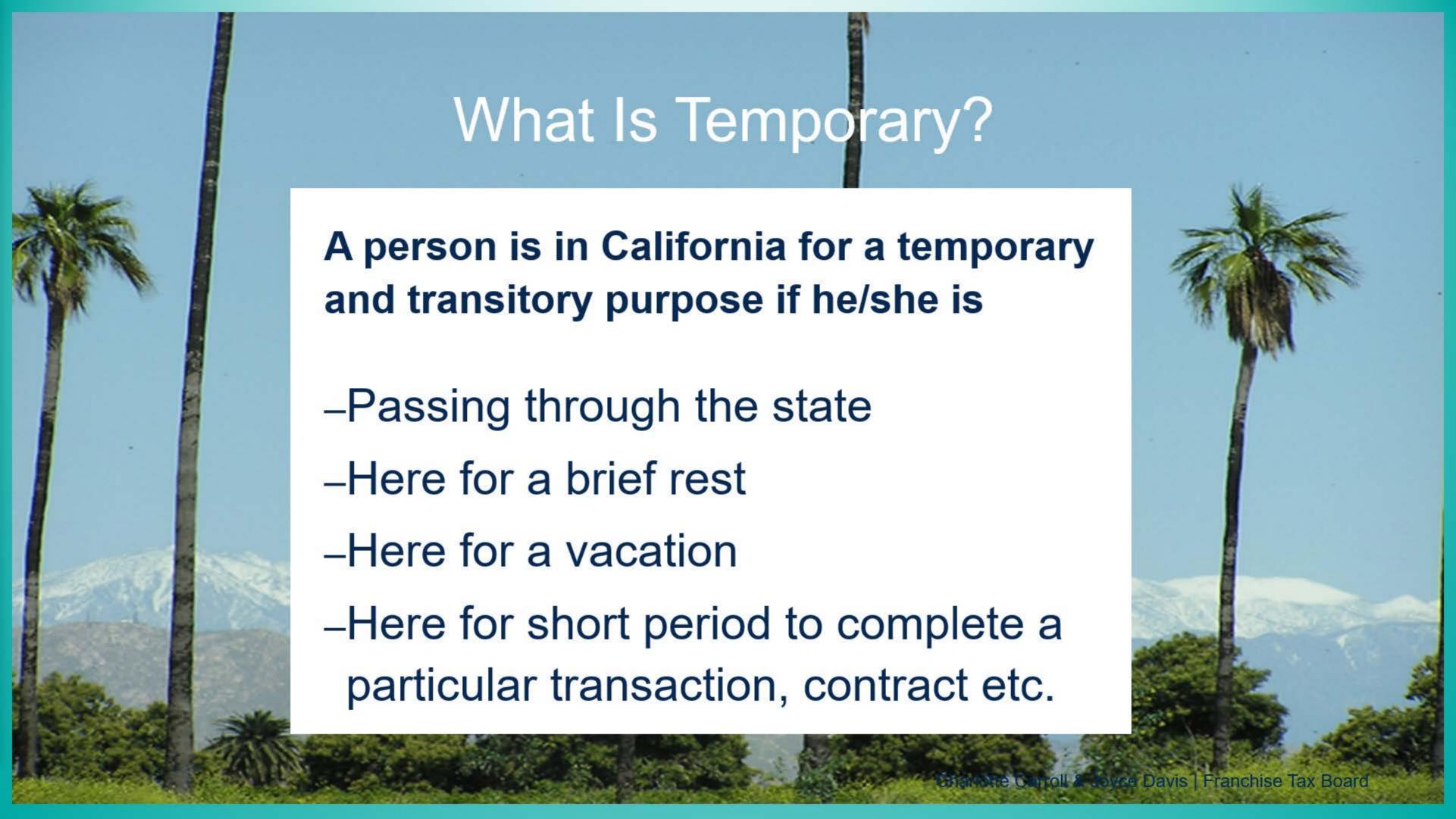


1. Every person who is:

- a. In this state for <u>other</u> than a temporary or transitory purpose *or*
- b. Domiciled in CA and who is outside for a temporary or transitory purpose

Definition of Nonresident:

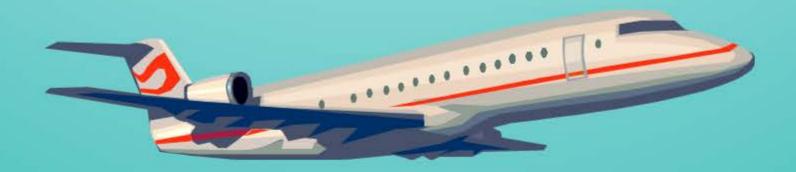
1. Every person other than a resident



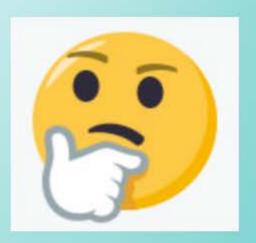
Where is your Domicile?

The location of your permanent home

 The place where you <u>intend</u> to return to whenever absent

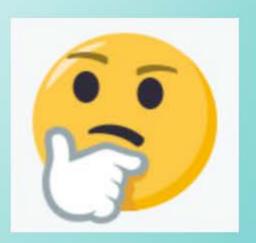


Presumption of Residency



- Every individual who spends in the aggregate more than nine months of the taxable year within this state shall be presumed to be a resident.
- The presumption may be overcome by satisfactory evidence that the individual is in the state for a temporary or transitory purpose.

Presumption of Residency



- Case law indicates that academic assignments are considered "temporary or transitory."
- California residents who took academic assignments out of California did not lose their California resident status.
- Therefore, for consistency, foreign scholars will not be considered residents solely because of the presumption of residency.

What are your Connections?

Factors to consider:

- Amount of time spent
- Intention to remain in the US
- Location of spouse and children
- Location of principal residence
- Location driver's license was issued, vehicles registered
- Location of real property and investments
- Permanence of work assignment
- Location of social ties

Foreign Scholars/Researchers

- If you are not a student or pursuing a degree, you will likely appear to meet the presumption of residency. The presumption can be overcome by showing that your stay is temporary or transitory.
- Residents file a form 540 or 540 2EZ.
- Nonresidents and part-year residents file a 540 NR.

Why Is Residency Important?

Residency affects the way a person is taxed:

 A California resident is taxed on all income from everywhere

A nonresident is taxed on income derived from sources

within California

Source Income Pertains to the Place of Origin

 The source of "tangible" income is where it is earned or located

The source of "intangible" income is the state (or country)
where the recipient is a resident

Sourcing of Income

Tangible Income:	Has a California Source if:
Wages, tips, commissions, fellowships	Work was performed in California – regardless of the location of the employer, where the payment was issued, or the individual's residence upon the receipt of the payment
Trade or business, property sales	Activity carried on in California or property located in California

Intangible Income:	Has a California Source if:
Interest and dividends	Nonresident: Never California resident: Always
Sales of stocks and bonds	Nonresident: Never California resident: Always

Fellowships, Stipends and Scholarships

California Source Income:

Wages/Salary Payments, including

- Fellowships or stipends: teaching/research assistantships
- Amounts received from employers domestic and foreign



Fellowship, Stipend, and Scholarships

 Amounts not used for payment of tuition and fees or books, supplies and equipment required for courses of instruction

California & Federal Differences

- California has no tax treaties with other countries
- No foreign tax credit
- Source of income has different meaning
- Worldwide income is required to be reported for California



Ways to convert currency

- 1. Convert on the day the money was earned.
- 2. Convert using an average for the entire year.
- 3. Convert on the last day of the year.

Which ever method is used, it must be consistently applied.

For currency exchange rates go to:

https://www.oanda.com



California Tax Forms

 Resident Form 540 requires all income from worldwide sources to be reported and computes the tax rate on all the income.



 Nonresident Part-year Form 540 NR reflects worldwide income but applies tax rate to only California sourced income.

California Tax Forms

- Nonresidents/Part-year residents
 - -540NR

- Residents
 - -540
 - -540 2EZ

You Cannot Use the 540 2EZ if you Have:

- Filing status is married/RDP filing separately.
- Income excluded by treaty
- Income received from another country during 2022
- Taxable scholarships, fellowships, or stipends not on a W-2

Forms we will use

CA Form 540NR &

Schedule CA (540NR)

Part II Income Adjustment Schedule	A	В	C	D	E
from federal Form 1040 or 1040-SR	Federal Amounts (taxable amounts from your federal tax return)	Subtractions See instructions (difference between CA & federal law)	Additions See instructions (difference between CA & federal law)	Total Amounts Using CA Law As If You Were a CA Resident (subtract col. B from col. A; add col. C to the result)	CA Amounts (income earned or received as a CA resident and income earned or received from CA sources as a nonresident)
1 a Total amount from federal Form(s) W-2, box 1. See instructions	•	•	•	•	•
b Household employee wages not reported	•	•	•	•	•
c Tip income not reported on line 1a 1c	•	•	•	•	•
	•	•	•	•	•
	•	•	•	•	•
f Employer-provided adoption benefits from federal Form 8839, line 29 1f	•	•	•	•	•
g Wages from federal Form 8919, line 6 1g	•	•	•	•	•
h Other earned income. See instructions 1h	•	•	•	•	•
i Nontaxable combat pay election. See instructions			•	•	•
z Add line 1a through line 1i 1z	•	•	•	•	•
2 Taxable interest. a Ordinary dividends. See instructions.	•	•	•	•	•
a 💿 3b	•	•	•	•	•
4 IRA distributions. See instructions. a	•	•	•	•	•
5 Pensions and annuities. See instructions. a 5b	•	•	•	•	•
6 Social security benefits.	•	•			
7 Capital gain or (loss). See instructions 7	•	•	•	•	•

As you begin your California return:

- 1. Complete your federal return prior to starting your state return.
- 2. Determine if you are a resident or a nonresident of California.
- Note: you can be a nonresident alien for federal purposes and still be a California resident.
- 4. Use the same filing status as you did on your federal return.
- 5. If you are a nonresident, determine your California source income.

Step by Step Example

Example: part-year resident using form 540NR.

Are You Ready?