STATE OF CALIFORNIA

Franchise Tax Board

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California Tax Workshop for Nonresident Scholars and Researchers

- Charlotte Carroll & Joyce Davis
- March/April 2021

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?***
- Do I Haveto File?
- If you've had money withheld, you must file to receive a refund.

On 12/31/20, my filing status was:	and on 12/31/20, my age was: (If your 65th birthday is on January 1, 2021, you are considered to be age 65 on December 31, 2020)	California Gross Income			California Adjusted Gross Income		
		Dependents			Dependents		
		0	1	2 or more	0	1	2 or more
Single or Head of household	Under 65	18,496	31,263	40,838	14,797	27,564	37,139
	65 or older	24,696	34,271	41,931	20,997	30,572	38,232
Married/RDP filing jointly	Under 65 (both spouses/RDPs)	36,996	49,763	59,338	29,599	42,366	51,941
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.)	65 or older (one spouse/RDP)	43,196	52,771	60,431	35,799	45,374	53,034
	65 or older (both spouses/RDPs)	49,396	58,971	66,631	41,999	51,574	59,234
Qualifying widow(er)	Under 65		31,263	40,838		27,564	37,139
	65 or older		34,271	41,931		30,572	38,232
Dependent of another person Any filing status	Any age	More than your standard deduction (Use the California Standard Deduction Worksheet for Dependents on page 11 to figure your standard deduction.)					

Do I Have to File?

- California has a minimum filing requirement.
  See: *Do I have to File?* handout.

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

Who is a Resident?

Definition of Resident:

1. **Every person who is:**
   a. In this state for other 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**

What Is Temporary?

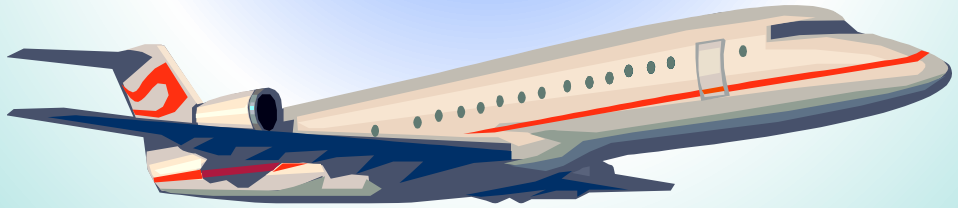
A person is in California for a temporary and transitory purpose if he/she is

- Passing through the state
- Here for a brief rest
- Here for a vacation
- Here for short period to complete a particular transaction, contract etc.

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

¥=$=€=£=฿=ö =₽=₪=₩

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 2020
- Taxable scholarships, fellowships, or stipends not on a W-2

Forms we will use

CA Form 540NR

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Schedule CA (540NR)

Part II Income Adjustment Schedule	A	B	C	D	E
Section A — Income 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 Wages, salaries, tips, etc. See instructions before making an entry in col. B or C. 1					
2 Taxable interest. a _____ . . 2b					
3 Ordinary dividends. See instructions. a _____ 3b					
4 IRA distributions. See instructions. a _____ 4b					
5 Pensions and annuities. See instructions. a _____ . . . 5b					
6 Social security benefits. a _____ 6b					
7 Capital gain or (loss). See instructions . . . 7					
Section B — Additional Income from federal Schedule 1 (Form 1040)					
1 Taxable refunds, credits, or offsets of state and local income taxes. 1					
2a Alimony received. See instructions. 2a					
3 Business income or (loss). See instructions. . . 3					
4 Other gains or (losses) 4					
5 Rental real estate, royalties, partnerships, S corporations, trusts, etc 5					

For Privacy Notice, get FTB 1131 ENG/SP 7741203 Schedule CA (540NR) 2020 Side 1

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.
3. 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?