

State Tax Issues for Non - Resident Scholars and Researchers



Agenda

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- California Residency Laws
- Items taxed by California
- Taxation of fellowships, stipends and scholarships
- State & Federal Differences
- Calculation of California tax
- Step-by-step completion of tax return

Do I Have to File?

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- California has a minimum filing requirement. See page 3 of the booklet.
- If you've had money withheld, you must file to receive a refund.



Who is a Resident?

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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?

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What Is Temporary?

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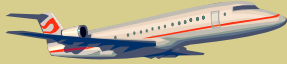
A person is in California for a temporary and transitory purpose if he/she is

- ✦ 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?

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- The location of your permanent home
- The place where you intend to return to whenever absent



Presumption of Residency

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- 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

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- 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

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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

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- 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?

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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

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- 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:

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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

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California Source Income:

Wages/Salary Payments, including

- ✦ Fellowships, teaching and research assistantships
- ✦ Amounts received from foreign employers



Fellowship, Stipend, and Scholarship amounts not used for payment of tuition and fees or books, supplies and equipment required for courses of instruction

California & Federal Differences

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- 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

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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, December 31.

Which ever method is used, it must be consistently applied. For historical currency exchange rates go to:

www.oanda.com

California Tax Forms

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



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

California Forms for Nonresidents

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- 540 – NR short form
- 540 – NR long form

Who Can Use the Short Form?

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- Single
- Only wages, interest and unemployment income
- Standard deduction

You Cannot Use the Short Form If You Have:

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- Filing status is married/RDP filing separately.
- Income excluded by treaty
- Income received from another country during 2015 prior to moving to the U.S.
- Taxable scholarships, fellowships, or stipends

California Forms for Residents

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- 540
- 540 2EZ

You Cannot Use the 540 2EZ If You Have:

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- Filing status is married/RDP filing separately.
- Income excluded by treaty
- Income received from another country during 2015
- Taxable scholarships, fellowships, or stipends not on a W-2

Forms we will use during this presentation:

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CA Form 540NR Long Form
&
Schedule CA (540NR)



2015 Schedule CA (540NR)

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Part III	Income Adjustment Schedule	A	B	C	D	E
Section 4	Income	Federal adjusted gross income (before state and local tax return)	Subtractions (Other Federal Adjustments (CA & Federal tax))	Additions (Other Adjustments (CA & Federal tax))	Total Adjustments (Using CA Law)	CA Adjusted Gross Income (CA Law)
7	Wages, salaries, tips, etc. See instructions before making an entry in col. B or C.					
8	Taxable interest. (b)					
9	Ordinary dividends. See instructions. (a) (c)					
10	Taxable refunds, credits, or offsets of state and local income taxes.					
11	Alimony received. See instructions.					
12	Business income or (loss).					
13	Capital gain or (loss). See instructions.					
14	Other gains or (losses).					
15	Risk reduction. See instructions. (a) (c)					
16	Pensions and annuities. See instructions. (a) (c)					
17	Rental fee income, royalties, partnerships, S corporations, trusts, etc.					
18	Farm income or (loss).					
19	Unemployment compensation.					
20	Social security benefits. (a) (c)					
21	Other income: a California literary award b Disaster loss carryover from FTB 3800V c Federal NOL (Form 1045, line 21) d NOL carryover from FTB 3800V e NOL from FTB 3800D, FTB 3800C, FTB 3800E, FTB 380Y, or FTB 3809 f Other (describe)					
22	Total. Continue line 7 through line 21 in each column. Continue to page 2.					

As you begin your California return:

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

Step by Step Example

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- Example for a part-year resident using a 540NR.
