



STATE OF CALIFORNIA  
**Franchise Tax Board**

# Franchise Tax Board

## California Tax Workshop for Nonresident Scholars and Researchers

- ▶ Marc Narlesky
- ▶ Technical Assistant to the Taxpayer Advocate
- ▶ 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?* 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:

2. **Every person other than a resident**

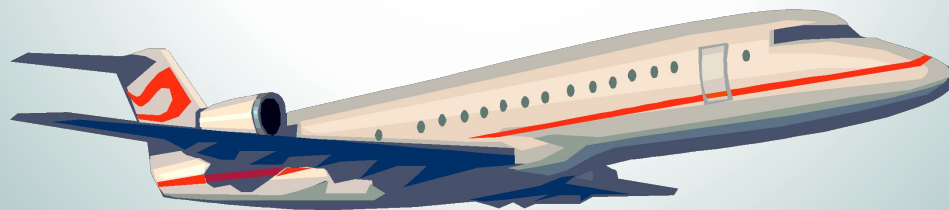
# What Is Temporary?

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

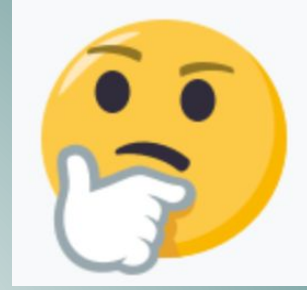
- Passing through the state
- Here for a brief rest
- Here for a vacation
- Here for short period to complete a particular transaction, contract etc.

# Where is your Domicile?

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



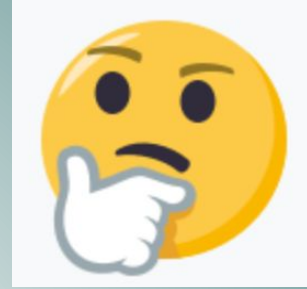
# Presumption of Residency



- 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.



# 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

<b>Tangible Income:</b>	<b>Has a California Source if:</b>
Wages, Scharships, Stipends, fellowships	<b>Work was performed in California – regardless of the location</b> of the employer, where the payment was issued, or the individual's residence upon the receipt of the payment

<b>Intangible Income:</b>	<b>Has a California Source if:</b>
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 2020
- Taxable scholarships, fellowships, or stipends not on a W-2

Forms we will use

CA Form 540NR

&

Schedule CA (540NR)

<b>Part II Income Adjustment Schedule</b>		<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>
<b>Section A — Income</b> 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 <input type="radio"/> _____ . . . . .	2b				
3	Ordinary dividends. See instructions. a <input type="radio"/> _____ . . . . .	3b				
4	IRA distributions. See instructions. a <input type="radio"/> _____ . . . . .	4b				
5	Pensions and annuities. See instructions. a <input type="radio"/> _____ . . . . .	5b				
6	Social security benefits. a <input type="radio"/> _____ . . . . .	6b				
7	Capital gain or (loss). See instructions . . . . .	7				
<b>Section B — Additional Income</b> 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				



# 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?**

# Resources

- [www.ftb.ca.gov](http://www.ftb.ca.gov)
- FTB Directory: [ftb.ca.gov](http://ftb.ca.gov); search **Directory**
  - Usually the fourth result is the directory

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