

State Tax Issues for Non - Resident Scholars and Researchers



Agenda

2

- 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?

3

- 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?

4

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?

5



What Is Temporary?

6

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?

7

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



Presumption of Residency

8

- 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

9

- 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?

10

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

11

- 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?

12

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

13

- 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:

14

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

15

California Source Income:

Wages/Salary Payments, including

- Fellowships, teaching/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

16

- 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

17

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:

<https://www.oanda.com>

California Tax Forms

18

- 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

19

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

Who Can Use the Short Form?

20

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

You **Cannot** Use the Short Form If You Have:

21

- Filing status is married/RDP filing separately.
- Income excluded by treaty
- Income received from another country during 2016 prior to moving to the U.S.
- Taxable scholarships, fellowships, or stipends

California Forms for Residents

22

- 540
- 540 2EZ



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You Cannot Use the 540 2EZ If You Have:

23

- Filing status is married/RDP filing separately.
- Income excluded by treaty
- Income received from another country during 2016
- Taxable scholarships, fellowships, or stipends not on a W-2

Forms we will use during this presentation:

24

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



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