State Tax Issues for Non-Resident Scholars

Franchise Tax Board

State of California
Franchise Tax Board

'11
Introduction

Residency affects the way a person is taxed:

• A California resident is taxed on all income from everywhere

• A non-resident is taxed on income derived from sources within California
Agenda

• 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
Residency:

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 Non-Resident:
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 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.
Look to Connections

Factors to consider:

- Amount of time spent
- 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

If file 1040NR with the IRS

File 540NR (nonresident) for California
Why Is Residency Important?

Residency affects the way a person is taxed:

• A California resident is taxed on all income from everywhere

• A non-resident 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:

<table>
<thead>
<tr>
<th>Tangible Income:</th>
<th>Has a California source if:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wages, tips, commissions, fellowships</td>
<td><strong>Work was performed in California</strong> - regardless of the location of employer, where the payment was issued, or the individual’s residence upon the receipt of the payment</td>
</tr>
<tr>
<td>Business, profession, trade</td>
<td><strong>Activity was carried on in California</strong> (may have to be allocated)</td>
</tr>
<tr>
<td>Sale of real estate</td>
<td><strong>Property was located in California</strong></td>
</tr>
<tr>
<td>Prizes or awards</td>
<td><strong>Company awarding the prize or award was located in California</strong></td>
</tr>
<tr>
<td>Rental income</td>
<td><strong>Property was located in California</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Intangible Income:</th>
<th>Has a California source if:</th>
</tr>
</thead>
</table>
| Interest and dividends            | Nonresident: **Never**  
California resident: **Always** |
| Sales of stocks and bonds         | Nonresident: **Never**  
California resident: **Always** |
| Alimony                           | Nonresident: **Never**  
California resident: **Always** |
Fellowships, Stipends and Scholarships

Taxable 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

- California has no tax treaties with other countries
- No foreign tax credit
- Source of income has different meaning
- World-wide income is required to be reported for California
California Forms for Non-residents

- 540 - NR short form
- 540 – NR long form
Who Can Use the Short Form?

- Single
- Only wages, interest and unemployment income
- Standard deduction
You **Cannot** Use the Short Form If You Have:

- Filing status is married/RDP filing separately.
- Taxpayer or taxpayer’s spouse/RDP are 65 or older.
- Claiming more than five dependents.
- Total income is more than $100,000.
- Have interest income from U.S. Obligations, U.S. Treasury Bills, Notes, Bonds, or other sources that is taxable for federal purposes and exempt for state purposes.
- Qualify for the California refundable Child and Dependent Care Expenses Credit.
Calculation of California Tax:

- 540 NR long form
  - Federal adjusted gross income
  - Subtractions & additions from schedule CA
  - Adjusted gross income from all sources (world-wide income)
  - Itemized or standard deduction
  - Total taxable income from all sources (world-wide)
Calculation of California Tax:

Schedule CA part II

- Column A – federal amounts
- Column B – subtractions
- Column C – additions
- Column D – total amount as if you were a resident
- Column E – California source amounts
Calculation of California Tax:

Schedule CA part III
- Adjustments to federal itemized deductions

Schedule CA part IV
- Calculate California taxable income
Calculation of California Tax:

540 NR – calculate tax
- Find tax on world-wide income
- Compute California tax rate
- Prorate exemption credits
- Calculate California tax before credits

540 NR side 2
- Apply taxes paid or withheld
- Determine if tax is due or owed
Next: Step–by-step Examples