



STATE OF CALIFORNIA  
**Franchise Tax Board**



STATE OF CALIFORNIA  
**Franchise Tax Board**

# California Tax Workshop for Nonresident Scholars and Researchers



Marc Narlesky

Taxpayers' Rights Advocate's Office

Education and Outreach Spring 2019

# 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 page 3 of the booklet.
- 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?

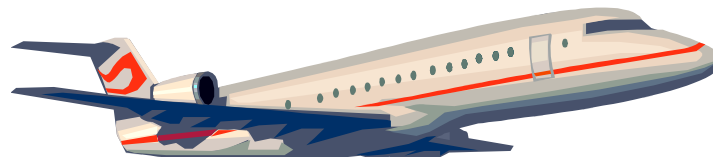
**A person is in California for a temporary and transitory purpose if he/she is**

- 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 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.
- 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	<b>Work was performed in California</b> – 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, teaching/research assistantships
- Amounts received from foreign employers



## **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, 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

- 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

- 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.
- Income excluded by treaty
- Income received from another country during 2018 prior to moving to the U.S.
- Taxable scholarships, fellowships, or stipends





# California Forms for 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 2018
- Taxable scholarships, fellowships, or stipends not on a W-2

## Forms we will use

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

# 2018 California Adjustments — Nonresidents or Part-Year Residents

## CA (540NR)

**Important:** Attach this schedule behind Long Form 540NR, Side 5 as a supporting California schedule.

Name(s) as shown on tax return	SSN or ITIN
--------------------------------	-------------

**Part I Residency Information.** Complete all lines that apply to you and your spouse/RDP for taxable year 2018.

During 2018:

- 1 My California (CA) Residency (Check one)  
 a Myself:  Nonresident  Part-Year Resident  Resident      b Spouse:  Nonresident  Part-Year Resident  Resident

	Yourself	Spouse/RDP
2 a I was domiciled in (enter two letter code, see instructions) . . . . .	<input type="radio"/>	<input type="radio"/>
b I was in the military and stationed in (enter two letter code) . . . . .	<input type="radio"/>	<input type="radio"/>
3 I became a CA resident (enter state of prior residence and date (mm/dd/yyyy) of move) . . . . .	<input type="radio"/>	<input type="radio"/>
4 I became a CA nonresident (enter new state of residence and date (mm/dd/yyyy) of move) . . . . .	<input type="radio"/>	<input type="radio"/>
5 I was a CA nonresident the entire year (enter state of residence) . . . . .	<input type="radio"/>	<input type="radio"/>
6 The number of days I spent in CA for any purpose was: . . . . .	<input type="radio"/>	<input type="radio"/>
7 I owned a home/property in CA (enter Y for Yes, N for No) . . . . .	<input type="radio"/>	<input type="radio"/>
8 <b>Before 2018:</b> I was a CA resident for the period of . . . . .	<input type="radio"/>	<input type="radio"/>

Part II Income Adjustment Schedule	A	B	C	D	E
Section A — Income from federal Form 1040	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	<input checked="" type="radio"/>	<input checked="" type="radio"/>	<input checked="" type="radio"/>	<input checked="" type="radio"/>	<input checked="" type="radio"/>
2 Taxable interest. (a) <input checked="" type="radio"/> . . . 2(b)	<input checked="" type="radio"/>	<input checked="" type="radio"/>	<input checked="" type="radio"/>	<input checked="" type="radio"/>	<input checked="" type="radio"/>
3 Ordinary dividends. See instructions. (a) <input checked="" type="radio"/> . . . . . 3(b)	<input checked="" type="radio"/>	<input checked="" type="radio"/>	<input checked="" type="radio"/>	<input checked="" type="radio"/>	<input checked="" type="radio"/>
4 IRAs, pensions, and annuities. See instructions. (a) <input checked="" type="radio"/> . . . 4(b)	<input checked="" type="radio"/>	<input checked="" type="radio"/>	<input checked="" type="radio"/>	<input checked="" type="radio"/>	<input checked="" type="radio"/>
5 Social security benefits. (a) <input checked="" type="radio"/> . . . . . 5(b)	<input checked="" type="radio"/>	<input checked="" type="radio"/>		<input checked="" type="radio"/>	
<b>Section B — Additional Income</b> from federal Schedule 1 (Form 1040)					

## 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 for California purposes.
3. 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 for a part- year resident using form 540NR.

# Are You Ready?



STATE OF CALIFORNIA  
**Franchise Tax Board**