



State of California  
Franchise Tax Board

# State Tax Issues for Non - Resident Scholars

Franchise Tax  
Board



# 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

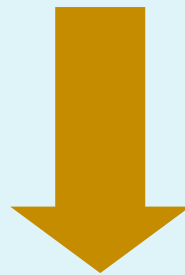
## Factors to consider:

- 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:

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

<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
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