



STATE OF CALIFORNIA
Franchise Tax Board

Taxpayers' Rights Advocate | Franchise Tax Board



STATE OF CALIFORNIA
Franchise Tax Board

Foreign Scholars Workshop



Janie Tran

Technical Advisor to the Advocate

Taxpayers' Rights Advocate's Office

March/April 2024

Program Agenda

- California Residency Laws
- Items Taxed by California
- Taxation of Fellowships, Stipends, and Scholarships
- State and Federal Law Differences
- Calculation of California tax
- Example: Preparing a Tax Return

Do I Have to File?

California has a minimum filing requirement:

- *See handout: Do I have to File?*
- If you've had money withheld, you must file to receive a refund.



California Residency Laws

Who is a CA Resident?

Definitions

A resident is a person who is...

- in this state for other than a temporary or transitory purpose, *or*
- domiciled in CA, and who is outside for a temporary or transitory purpose.

A nonresident is...

- Every person other than a resident.

What is Temporary or Transitory?

A person is in California for a temporary or transitory purpose if he/she is...

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

Where is your Domicile?

The location of your permanent home.

OR

The place where you intend to return to whenever absent.

What are our 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

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 CA students pursuing academics outside of CA retain their California resident status despite the length of time spent outside of CA.

Therefore, for consistency, foreign scholars pursuing a degree in CA will not be considered California residents solely based on the presumption of residency and their presence in CA.

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 of Income Pertains to the Place of Origin

Source of Tangible Income

- Where it is earned or located.

Source of Intangible Income

- The state (or country) where the recipient is a resident.

Sourcing of Income

If income is...	Such as...	Has a California source if:
Tangible	Wages, Scholarships, Stipends, 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.
Intangible	Interest and dividends	Nonresident: Never California Resident: Always
Intangible	Sales of stocks and bonds	Nonresident: Never California resident: Always

California Source Income

Wages/Salary, Payments, including

- Fellowships or stipends: teaching/research assistantships
- Amounts received from employers domestic and foreign

Fellowship 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

- Convert on the day the money was earned.
- Convert using an average for the entire year.
- Convert on the last day of the calendar year (12/31).

Which ever method is used, it must be consistently applied. For currency exchange rates go to: <https://www.oanda.com>

CA Tax Forms

Resident Form 540

Requires all income from worldwide sources to be reported and computes the tax based on all the income.

Nonresident/Part-Year Resident Form 540 NR

- Reflects worldwide income but applies tax rate only to California sourced income.

CA Tax Forms



You Cannot Use the 540 2EZ if your:

- Filing status is married/RDP filing separately.
- Income excluded for federal purposes pursuant to a tax treaty.
- Income received from another country during 2023.
- Taxable scholarships, fellowships, or stipends not reported on a W-2.

CA Healthcare Mandate

- Beginning January 1, 2020, **California residents** must either:
 - Have qualifying health insurance coverage
 - Obtain an exemption from the requirement to have coverage
 - Pay a penalty when they file their state tax return
- Check Box 91 on your tax return to indicate full-year health coverage
- FTB 3853: Health Coverage Exemptions & Penalty Calculator

CA Healthcare Mandate

- For additional information, go to Franchise Tax Board's public website at ftb.ca.gov and search "Health Care Mandate".
- Click "Personal" tab to access:
 - Applicable forms
 - Information on exemptions
 - Online Penalty Estimator
- For full year CA nonresidents, enter exemption code "E" on Form FTB 3853.
- See Form FTB 3853 and instructions included in your resource handout.

Schedule CA

Part II Income Adjustment Schedule	A	B	C	D	E
Section A — Income 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 a Total amount from federal Form(s) W-2, box 1. See instructions 1a	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
b Household employee wages not reported on federal Form(s) W-2 1b	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
c Tip income not reported on line 1a 1c	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
d Medicaid waiver payments not reported on federal Form(s) W-2. See instructions . 1d	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
e Taxable dependent care benefits from federal Form 2441, line 26 1e	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
f Employer-provided adoption benefits from federal Form 8839, line 29 1f	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
g Wages from federal Form 8919, line 6 . . . 1g	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
h Other earned income. See instructions . . 1h	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
i Nontaxable combat pay election. See instructions 1i			<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
z Add line 1a through line 1i 1z	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
2 Taxable interest. a <input type="radio"/> 2b	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
3 Ordinary dividends. See instructions. a <input type="radio"/> 3b	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
4 IRA distributions. See instructions. a <input type="radio"/> 4b	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
5 Pensions and annuities. See instructions. a <input type="radio"/> 5b	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
6 Social security benefits. a <input type="radio"/> 6b	<input type="radio"/>	<input type="radio"/>			
7 Capital gain or (loss). See instructions . . . 7	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Beginning your CA 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.

Comprehensive Example

CA Form 540NR & Schedule CA (540NR)

Resources

- www.ftb.ca.gov
- Refer to “Student Resources” handout