From the desk of
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Are you a California Resident for Tax Purposes?

California taxpayers and residents pay the highest taxes in the United States.

The tax cost of living in California is 13.3% at the top rate, plus some of the highest property taxes in the nation, and of course our famously high gas taxes, along with a number of other “fees” and other costs our local governments impose for living here.

That high rate applies to approximately 1.5% of Californians, those with a single income filing of at least $263,000, or joint income of $526,000.

There are now proposals in the State Assembly to increase that rate to 18% or higher, and another bill to trail taxpayers leaving the state with income taxes that will apply for 10 years from the time they depart the Golden State.

To make matters worse there is no capital gains rate as there is with the federal tax system, therefore all income including capital gains are taxed as if that income was ordinary income.

Over the past several years the tax laws in California are causing residents to move elsewhere to lower tax states at retirement, and for many other reasons including the political environment here, but if the proposed trailing tax legislation passes, that may not be an out for taxpayers leaving the state.

With the 2018 federal tax law changes, paying 13.3% after the $10,000 cap has become further problematic along with the inability to deduct exorbitant property taxes that are imposed upon our citizens.

There is a problem though in thinking one has escaped the clutches from the “progressive” minded legislators who truly are in the business of transferring of wealth from those who are in the higher tax brackets to others within California, and for other silly reasons such as delivering the homeless housing at an average cost of $760,000.00 in Los Angeles that is far in excess of the cost of the average cost in California.

There is a sort “Robin Hood” Syndrome here in California in that the legislators here continue to pass “transfer of wealth” legislation, but as we here in California fully know, the State rarely shares those taxes collected with the poor, or anyone else other than those who as an example have contracted to build railroad lines at over $100 million a mile – that would be Dianne Feinstein's husband.

California has a very broad reach into other states, and shares information that is provided to those state taxing authorities.

The California Franchise Tax Board, one of the many taxing authorities for the State has been reaching out to those leaving California to "encourage" them to continue paying California taxes.

California can assess taxes no matter where you live.

The California's Franchise Tax Board (FTB) monitors both residents and non-residents, and does so rigorously.

A California resident is anyone in the state for other than a temporary or transitory purpose.

This also includes anyone domiciled in California who is outside the state for a temporary or transitory purpose.

The burden is on the taxpayer in proving if one is not a Californian for tax purposes.

Should you reside in California for more than 9 months, you are *presumed* to be a resident.

On the other hand if your job requires you to be outside the state, generally it takes 18 months to be presumed not be a resident.

Your domicile is your fixed permanent home, the place where you intend to return to even when you are elsewhere whether for work, or other reasons.

Many Californians look to leave the state before selling real estate or a business.

Some get the travel itch right before cashing in shares, a public offering, or settling litigation.

Some who plan carefully can make their exit work, yet many would-be former Californians have unrealistic expectations about establishing residency in a new state.

They may have a hard time distancing themselves from California, and they may not anticipate California tax authorities pursuing them.

You can have only one domicile for tax purposes both under federal and state income tax laws. That set of facts will depend upon your intent, but be aware that the facts will be the determining factor as to whether you continue to pay taxes to California, or not.

The Franchise Tax Board compares property tax information with those who file income tax returns with the State. In many instances those who continue to own property in

California are often sent inquiries, and find themselves under audit due to the fact that they do in fact own property here when failing to file an income tax return.

Your primary residence is determined by many factors, where you vote, pay your primary utilities, how many days you spend in or outside of California are all considerations.

In one instance that FTB reviewed the credit card spending of a taxpayer who claimed to live elsewhere, and found that taxpayer actually had spent more than 180 days inside the State, and declared his entire earnings subject to California taxes.

Where your spouse and children reside factors into the evaluation as well as does the location where your children attend school.

The days inside and outside the State are important as is the purpose of your travels.

Where you have bank accounts, where you belong to social, religious, professional and other organizations is also relevant.

Voter registration, vehicle registration and driver's licenses are factored into whether you are a California resident for tax purposes.

Where you are employed is a key determination as to your residency here for tax purposes. You may be a California resident even if you travel extensively and are rarely in the state. Where you own or operate businesses is relevant, as is the relative income and time you devote to them.

Taxpayers with unrealistic expectations can end up with big bills for taxes, interest and penalties.

In addition while the IRS can audit up to three years, California law can audit forever, but generally that is four years if you filed a tax return, but several other factors allow the FTB an unlimited amount of time to audit you.

California like the IRS can audit your tax returns for an unlimited time if you do not file an income tax return with the State.

While you might claim that you are no longer a resident and have no California filing obligation the FTB can disagree.

Filing a non-resident tax return reporting your California-source income as a non-resident can help to prevent the FTB from auditing past their normal four year Statute of Limitations.

We here at Muffoletto & Company believe that the more informed you are in regards to the rules and regulations that affect you the more we can be of service.

Should you have questions relating to any tax or financial matters call at

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