



## Robert W. Wood

THE TAX LAWYER

TAXES 5/17/2016

### Can You Avoid California Taxes By Moving?

California is a land of plenty, but it has plenty of [taxes](#) too. In fact, the state's taxes can be so high—a whopping 13.3% on top of the IRS—that it often seems to invite investors, and business people to move. It sounds smart to make your money in California, but to quickly move out before it is taxed by the Golden State. Other states (notably New York) have a similar problem. But year after year, no state has a bigger and more persistent cadre of would-be tax fugitives than California.

Some Californians look to flee the state before selling real estate or a business. Some get the travel itch right before cashing in shares, a public offering, winning a lawsuit, or settling litigation. Some of the carefully orchestrated deals and moves can work just fine. However, many would-be former Californians have unrealistic expectations about establishing residency in a new state. They also may have a hard time distancing themselves from California. Finally, they may not plan on California tax authorities chasing them.



A California resident is anyone in the state for other than a temporary or transitory purpose. A California resident also includes anyone domiciled in California who is outside the state for a temporary or transitory purpose. The burden is on you to show that you are *not* a Californian. If you're in California for more than 9 months, you are presumed a resident.

Yet if your job requires you to be outside the state, it usually takes 18 months to be presumed *no longer* a resident. Your domicile is your true, fixed permanent home, the place where you intend to return even when you're gone. Do you maintain a California base in a state of constant readiness for your return?

You can have only one domicile, and it depends on your intent. How do you measure intent? Objective facts, and many are relevant. Start with where you own a home. If you own several, compare size and value. Consider if you claim a homeowner's property tax exemption as a resident. Where your spouse and children reside counts too, as does the location where your children attend school. And the details matter. If you claim not to be a California resident, make sure you are paying non-resident tuition for college students.



*Emirates Team New Zealand and Oracle Team USA race in front of the San Francisco Skyline during race 10 of the America's Cup finals on September 15, 2013 in San Francisco, California. (Photo by Jamie Squire/Getty Images)*

Your days inside and outside the state are important, as is the purpose of your travels. Where do you have bank accounts and belong to social, religious, professional and other organizations? Voter registration, vehicle registration and driver's licenses count. Where you are employed is key. 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.

You can own investments far and wide, but you can expect them to be compared. Where you obtain professional services matters, including doctors, dentists, accountants and attorneys. Fortunately for California tax advisers, the mere fact that you hire a California tax lawyer to advise you about your California tax exposure doesn't mean you're a resident!

Many of these points are probably not too significant one by one. Yet they have a cumulative effect pro or con. If you leave California, sell your residence or at least rent it out on a long-term lease. Getting a post office box in Nevada does not make you a Nevada resident. You will end up with bills for taxes, interest and penalties, or worse. If you are going to move, you need to actually do it.

Like other high tax states, California is likely to pursue you and probe how and when you stopped being a resident. Get some legal advice and plan carefully.

*For alerts to future tax articles, email me at [Wood@WoodLLP.com](mailto:Wood@WoodLLP.com). This discussion is not legal advice.*