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California Billionaires Left Over Taxes—What Happens If They Come Back?



California's billionaire tax appears headed for defeat, while voters look poised to approve Proposition 42, a constitutional amendment intended to restrict future wealth taxes. But wealthy residents who left California may still face a different tax question if they decide to return. Moving back does not automatically mean California can tax income earned while someone lived elsewhere, but the state's Franchise Tax Board can scrutinize whether that person truly established residency outside California or whether the move was only temporary.

The question could matter for high-profile Californians who have left the state, including Google cofounders Larry Page and Sergey Brin, Meta's Mark Zuckerberg and venture capitalists Peter Thiel and David Sacks. But the issue extends beyond billionaires. California residency disputes can turn on where taxpayers spend their time, maintain their homes, conduct business and keep their closest personal and financial ties. For anyone who leaves California and later considers moving back, those details could help determine whether the state views the years away as a genuine change in residency.

Did You Really Leave California?

The state is well known for auditing people who leave, and California tax disputes are tricky. California routinely takes the position that if you are a California domiciliary, leave for a year or even more and move back, maybe you never really left. That is particularly true when taxes motivated the move. Although the person actually left, the state can argue that a move out of state was merely temporary or transitory.

In short, the state can argue that your original domicile never changed. That means whatever you earned when you *thought* you were no longer a California resident could be fair game for the Golden State's tax collector. Who bears the

burden of proof in such tax fights? You guessed it: the taxpayer. California has a longer tax statute of limitations, too.

What Determines Your Domicile?

A California tax resident is an individual who is in California for other than a temporary or transitory purpose or is domiciled in California but outside California for a temporary or transitory purpose. A domicile is the place where an individual voluntarily establishes their true, fixed, permanent home and principal establishment and to which they intend to return whenever absent.

An individual can have only one domicile at a time, and if you acquire a domicile in one place, you retain it until you acquire another domicile. A change in domicile requires:

- Abandonment of the prior domicile.
- Physically moving to and residing in a new locality.
- Intent to remain in the new locality permanently or indefinitely.
- More than an intent to change domicile. The taxpayer must manifest that intent through acts and declarations.

How California Decides Whether Your Move Was Temporary

Given the wherewithal of billionaires, they were doubtless well advised and likely did a thorough job of moving away. After all the publicity and effort, it also seems unlikely that they will return. Still, California looks to objective factors to determine whether a taxpayer is in California, or has left California, for other than a temporary or transitory purpose. These factors include:

- The amount of time a taxpayer spent in California versus time spent outside California.
- The location of a taxpayer's spouse and children, including where the children attend school.
- The location of a taxpayer's principal residence, including a comparison of the size and value of the residences and the location of the property for which they have claimed the homeowner's property tax exemption.
- Where a taxpayer's driver's license was issued.
- Where the taxpayer's vehicles are registered.
- Where a taxpayer's professional licenses are maintained.
- Where a taxpayer is registered to vote.
- The locations of banks where a taxpayer maintain accounts.
- The origination points of a taxpayer's financial transactions.
- The locations of a taxpayer's doctors, dentists, accountants and attorneys.
- The locations of a taxpayer's church, temple or mosque; professional associations; and social and country clubs of which the taxpayer is a member.
- The permanence of a taxpayer's work assignments and business interests in California.
- The location of a taxpayer's social ties.
- The contact address a taxpayer uses for mail and correspondence.
- Telephone records showing the origination of a taxpayer's phone calls.

California employs a comparative analysis to determine whether the taxpayer has closer connections to another state. You can read the FTB's own guidelines for determining resident status.

How Much Time Can You Spend In California?

A major factor California examines when determining the state with which a taxpayer has the closest connections is the taxpayer's physical presence in California. Physical presence can trigger or affect certain presumptions under California law. If a taxpayer spent more than nine months of the year in California, the state presumes they are a California resident, and this can be a very difficult presumption to rebut.

If a taxpayer spends six months or less of the year in California, they might qualify for a beneficial safe harbor for seasonal visitors to California, such as individuals who live outside of California but have a vacation home in the state.

This safe harbor applies only if the individual spends six months or less in California, is domiciled outside California and does not conduct business while in California.

Speaking of business, California's tax collector often collects from out-of-state businesses, too.