



## Robert W. Wood

THE TAX LAWYER

TAXES 6/09/2015

### Moving To Avoid California Taxes? Be Careful

It is easy to love California, but its high taxes are not easy to love. With a top 13.3% rate and no break for capital gains, it is sometimes tough to swallow. Some people head for the exits before selling real estate or a business, or before taking a company public or winning a large legal settlement. Here are a few tips culled from [35 years](#) as a tax lawyer in the Golden State.

A California resident is anyone in the state for other than a temporary or transitory purpose. See [FTB Publication 1031](#). Plus, it includes anyone domiciled in California who is outside the state for a temporary or transitory purpose. The burden is on you to show you're *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 count too, as does where your children attend school. If you claim not to be a California resident, make sure you are paying non-resident tuition for college students.

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 counts, as does 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.

Don't just get a post office box in Nevada. That doesn't work and you will end up with bills for taxes, interest and penalties or worse. If you're 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, follow me on Forbes. You can reach me at [Wood@WoodLLP.com](mailto:Wood@WoodLLP.com). This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.*