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Tax Bill Kills State Tax Deduction, So California's 13.3% Prompts More Exits

The Tax Cuts and Jobs Act is out, and you can wade through the 429 pages [here](#). As this helpful [summary of the plan](#) states, it would eliminate the state and local tax deduction. If you pay high state income taxes--think California, New York, and many other places--you'll care about this. Tens of millions of Americans claim this tax deduction, writing off their state and local taxes to reduce their federal income tax. Lots of taxpayers, Republicans and Democrats alike, could even rethink where they want to live. After all, it already hurts to pay high state

taxes. No deduction is some serious lemon juice in that state tax paper cut.



California taxes, a whopping 13.3% on top of the IRS, already invites some investors and business people to move. Many people want to make money in California, but to move before it is taxed by the Golden State. 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 carefully orchestrated deals and moves can work. But, many leavers have unrealistic expectations about establishing residency elsewhere, and have a hard time distancing themselves from California.

They may not plan on California's taxman 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.

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 can have a cumulative effect. 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 probe how and when you stopped being a resident. Finally, you can sometimes combine strategies,

including this suggestion about trying to [skip California taxes without moving](#). Plan carefully.

For alerts to future tax articles, email me at Wood@WoodLLP.com. This discussion is not legal advice.