

CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 103

December 8, 1953

RESIDENCE

Syllabus:

Taxpayers were residents of New York prior to July, 1949. In July, 1949, taxpayers cancelled the lease on their apartment, stored their furniture and came to California. They rented an apartment in Los Angeles and have continued to occupy it since that time, with the exception of short trips to New York. On these trips they obtained hotel accommodations or stayed with relatives. In August, 1949, taxpayer accepted a position with a Los Angeles firm, he also retained association with two New York firms. A great deal of his services for the Los Angeles firm were performed on his trips to New York City and it appears these trips were occasioned by business reasons. Taxpayers contend that their original intent was to remain in California only temporarily. They stored their furniture, retained memberships in a country club and a religious organization there. Their automobile was registered there and they filed New York resident income tax returns. They contend they did not decide to remain here permanently until some time during 1951; and that until that time they were not residents of California. Advice is requested whether taxpayers became residents of California in July, 1949.

Section 17041 establishes residence as the criterion for income tax liability. Section 17014 defines a resident. Thus, the inquiry as to the taxpayers' residence may be answered by determining whether they were physically present within the State for other than a temporary or transitory purpose. Taxpayers entered California in July, 1949, for a stay of indefinite duration. Since that time they have maintained their only living quarters in California and have spent most of their time here. Shortly after their arrival taxpayer accepted a local position and established a bank account here. The taxpayers recurrent trips to New York appear to have been prompted by business reasons. The acceptance of employment by taxpayer with a local company comes clearly within Regulation 17013-17015(b) in defining the term "temporary or transitory purpose". No showing has been made that his employment was for other than an indefinite period. Since taxpayer rendered substantial services in California to a local concern on an employment basis of indefinite duration, he squarely meets the test of residence established by the regulation, therefore, taxpayers become residents of this state in July, 1949, for tax purposes.