Notice of Proposed Assessment (Nonresident or Part-Year Resident)

Frequently Asked Questions

Tax Year 2002 and Later

California Franchise Tax Board

I filed a nonresident return, why are you sending me this notice?

You did not include the correct amount of income in your "adjusted gross income (AGI) from all sources" on Form 540NR, *California Nonresident or Part-Year Resident Income Tax Return*. Our notice adds back the income you excluded so that we can tax your California income at the correct rate.

I filed a resident return, why are you sending me this notice?

The enclosed notice points out the specific error on your tax return. For example, you may have underreported your federal AGI by excluding your non-California sourced income, or you incorrectly subtracted income as a California income adjustment.

It appears you made this error because you were not a California resident the entire year and tried to exclude non-California sourced income. The enclosed notice makes two adjustments:

1. It adds back the excluded income.
2. It revises your resident return to reflect the correct tax for a nonresident or part-year resident return.

Why did you use non-California sourced income to figure my California tax rate?

California law provides the specific method to determine the tax liability of nonresidents or part-year residents. We use your total income to compute the rate at which to tax your California income. We:

1. Determine your total taxable income and tax as if you were a California resident the entire year.
2. Calculate the tax rate by dividing the 'Tax on your Total Taxable Income' by the 'Total Taxable Income' itself.
3. Multiply only your California taxable income by this rate.

References: California Revenue and Taxation Code Section 17041, subdivisions (b) and (d).

What are the steps for calculating the tax of nonresidents or part-year residents applying the California method?

The following example demonstrates the California method of calculating tax for nonresidents or part-year residents.

Sally moved to California from New York on September 1, 2002.

Her *total* income and expenses from California and New York were:

- $30,000 in wages.
- $300 in interest on a savings account.
- $3,300 in itemized deductions, including $3,000 in mortgage interest she paid on her New York home.

Her *California* income included:

- $10,000 in wages earned after September 1, 2002.
- $100 in interest earned after September 1, 2002.

Steps used to compute Sally's California tax		
Step 1 Adjusted Gross Income (AGI) from All Sources	Sally determines her AGI from all sources as if she was a California resident the entire year. This includes income from sources inside **and** outside California. **Note: Sally does not exclude her New York income in this step.**	Wages $30,000 Interest + 300 **AGI from all sources $30,300**
Step 2 Tax on Total Taxable Income	Sally computes her tax on her total taxable income as if she was a resident of California the entire year.	AGI from all sources $30,300 Total Itemized deductions -3,300 **Total taxable income $27,000** **Tax on total taxable income $ 949**
Step 3 California Tax Rate	Sally calculates her California tax rate by dividing the tax computed on the total taxable income by the total taxable income.	$949 (Tax on total taxable income) ÷ $27,000 (Total taxable income) = .0351 (California tax rate)
Step 4 California AGI	Sally's California AGI includes only income from sources inside California. **Note: While a California resident, Sally did not earn or receive income from non-California sources.**	Wages $10,000 Interest + 100 **California AGI $10,100**

Step 5 California Prorated Itemized or Standard Deductions	Sally's California prorated itemized deductions (ID) are the total deductions allowed a California resident multiplied by the ratio of California AGI divided by the AGI from all sources. This same proration formula is used if Sally claims the standard deduction. **Note: Since Sally pays only a portion of the tax a California resident pays, her deductions are also prorated.**	Itemized deductions x $\frac{\text{California AGI}}{\text{AGI from all sources}}$ = CA Prorated ID $ 3,300 x $\frac{\$10,100}{\$30,300}$ = $1,100 **Prorated itemized deductions** **$1,100**
Step 6 California Taxable Income	Sally's California taxable income is her California AGI minus her prorated itemized deductions.	California AGI $10,100 Prorated deductions -1,100 **California taxable income** **$ 9,000**
Step 7 California Tax Before Credits	Sally multiplies her California taxable income (Step 6) by the California tax rate (Step 3).	California taxable income $ 9,000 California tax rate x .0351 **California tax before credits** **$315.90**
Step 8 California Prorated Exemption Credits	Sally multiplies her exemption credits by the ratio of California taxable income divided by the total taxable income. **Note: Since Sally pays only a portion of the tax a California resident pays, her exemption credits are also prorated.**	Total Exemption Credit x $\frac{\text{California taxable income}}{\text{Total taxable income}}$ = CA Prorated Credit $80 x $\frac{\$9,000}{\$27,000}$ = $27 **California prorated exemption credits** **= $27**
Step 9 California Tax	Sally computes her California tax after credits by subtracting her prorated exemption credits from her tax before credits.	California tax before credits $316 Prorated exemption credits -27 **California tax** **$289**

Is California taxing my non-California sourced income?
No. Your non-California sourced income is used only to determine the rate of tax and the ratios used to compute your California tax liability. The California State Board of Equalization has consistently held that the California method of computing your nonresident tax liability is not taxing your non-California sourced income.

Does it violate the U.S. Constitution for California to use income from outside California to determine my California tax liability?
No. It has long been established by the courts that states may use nontaxable out-of-state assets to calculate the state's tax liability. Therefore, we include income from outside the state to calculate your California income tax liability.

When I use the California method, I owe more tax than if I did not include the non-California income. Is this appropriate?
Yes. California bases its progressive rate structure on the "ability to pay" concept. Individuals with higher income pay tax at a higher rate than low-income individuals. The courts have reasoned that similarly situated taxpayers are those with the same total income from all sources.

For example, a nonresident earning $20,000 in California, but with reported total income of $100,000, is taxed at the same rate as a resident with an income of $100,000. In effect, the $20,000 is taxed at the same tax rate as a California resident. Not using your total income to determine your tax rate would unfairly benefit you when compared with other resident taxpayers.

Can I change my filing status from married/registered domestic partner (RDP) filing jointly to filing separately after I filed a joint return?
Generally, no. You cannot elect to change your filing status to married/RDP filing separately after the due date of the tax return, unless you, your spouse or RDP were:

- An active member of the armed forces or any auxiliary branch.
- A nonresident for the entire taxable year with no California sourced income.

If you meet either of the above exceptions, you must file a Form 540X, *Amended Individual Income Tax Return*, to change your filing status to married/RDP filing separately within four years of the due date of the tax return.

Note: Any reference to RDPs in this publication only applies to tax years 2007 and later.

Note: If the spouse or RDP that **earned** California sourced income is domiciled in a community property state, you do not meet the exception above. You must split the California sourced income equally between the spouses or RDPs, which means both of you have California sourced income.

Another state also taxed the additional income on my notice. Do I have to pay taxes to both states?
It depends. California allows certain taxpayers a credit for income tax paid to another state when the income is also taxed by California. To qualify as double taxed income, the income must be included in your California AGI. If the income is only in the "AGI from all sources" and not in your California AGI, it is not taxed by California. See California Schedule S, *Other State Tax Credit*, to determine if you qualify for this credit. If you qualify for the credit, send us a completed Schedule S and a copy of the other state tax return with your correspondence.

For information on how to obtain a Schedule S, see "Where To Get Income Tax Forms" below.

Does my withholding credit pay the additional tax due?
No. We allowed this credit when we processed your tax return. If you had any excess credit, it was refunded to you. Any credit amount we did not refund to you is included in the "original or revised tax" figure on the enclosed notice. If you have additional withholding credit that was not claimed or allowed on your return, send us a copy of the Wage and Tax Statement, Form W2, that shows the additional California state withholding credit.

Telephone Assistance

From within the United States. . . . . (800) 852-5711
From outside the United States, call (not toll-free) . . . . (916) 845-6500
Website. . . . . **ftb.ca.gov**

Assistance for persons with disabilities: We comply with the Americans with Disabilities Act. Persons with hearing or speech impairments, please call TTY/TDD (800) 822-6268.

Asistencia en espanol

Dentro de los Estados Unidos, llame al . . . . (800) 852-5711
Fuera de los Estados Unidos llame al (cargos aplican) . . . . (916) 845-6500

Asistencia para personas con discapacidades: Nosotros estamos en conformidad con la Ley sobre Estadounidenses con Discapacidades (ADA). Personas con discapacidades de la audición y del habla pueden llamar al TTY/TDD (800) 822-6268.

Where To Get Income Tax Forms

Internet California income tax forms and publications are available on the Franchise Tax Board website at **ftb.ca.gov.**

Telephone Call our toll-free number listed under Telephone Assistance above.

Mail Write to us at:
TAX FORMS REQUEST UNIT MS D120
FRANCHISE TAX BOARD
PO BOX 307
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