

*Note: This handout is intended only for purposes of facilitating discussion at the Interested Parties Meeting scheduled for October 8, 2020.*

**FRANCHISE TAX BOARD  
CALIFORNIA CODE OF REGULATIONS TITLE 18, DIVISION 3,  
CHAPTER 2.5. SUBCHAPTER 11, SECTION 17951-5,  
REGARDING GROSS INCOME OF NONRESIDENTS**

Proposed language additions are underlined. Proposed deletions are ~~stricken~~.

§ 17951-5. Wages, Salaries and Other Compensation Received by Employees for Personal Services Performed in This State.

- (a) (1) The gross income from commissions earned by a nonresident traveling salesman, agent or other employee for services performed or sales made whose compensation depends directly on the volume of business transacted by him, includes that proportion of the compensation received which the volume of business transacted by such employee within the State of California bears to the total volume of business transacted by him within and without the State.
- (2) Nonresident employees, including but not limited to, actors, singers, performers, entertainers, wrestlers, boxers, etc., must include in gross income as income from sources within this State the gross amount received for performances in this State.
- (3) Nonresident professional employees, including but not limited to, attorneys, physicians, accountants, engineers, etc., even though not regularly engaged in carrying on their professions in this State, must include in gross income as income from sources within this State the entire amount of ~~fees or~~ compensation for services performed in this State on behalf of their employer's clients.
- (4) If nonresident employees (including officers of corporations, but excluding employees, mentioned in (1) through (3) above) are employed continuously in this State for a definite portion of any taxable year, the gross income of the employees from sources within this State includes the total compensation for the period employed in this State.
- (b) If nonresident employees are employed in this State at intervals throughout the year, as would be the case if employed in operating trains, boats, planes, motor buses, trucks, etc., between this State and other states and foreign countries, and are paid on a daily, weekly or monthly basis, the gross income from sources within this State includes that portion of the total compensation for personal services which the total number of working days employed within the State bears to the total number of working days both within and without the State. If the employees are paid on a mileage basis, the gross income from sources within this State includes that portion of the total compensation for personal services which the number of miles traversed in California bears to the total number of miles traversed within and without the State.

- (c) If ~~the employees, including performers and professionals,~~ are paid on some other basis, ~~the total that employment compensation for personal services~~ must be apportioned between this State and other States and foreign countries in such a manner as to allocate to California that portion of the total compensation which is reasonably attributable to personal services performed in this State.
- (d) Gross income from sources within this State does not include qualified retirement income, as defined in Section 17952.5 of the Revenue and Taxation Code received by a nonresident during a taxable year beginning on or after January 1, 1996.

Note: Authority cited: Section 19503, Revenue and Taxation Code.

Reference: Sections 17041, 17951 and 17952, Revenue and Taxation Code.

**FRANCHISE TAX BOARD  
CALIFORNIA CODE OF REGULATIONS TITLE 18, DIVISION 3,  
CHAPTER 2.5. SUBCHAPTER 11, SECTION 17951-8,  
REGARDING GROSS INCOME OF NONRESIDENTS**

Proposed language additions are underlined.

§ 17951-8. Compensation Received by Nonresident Nonemployee Independent Directors

The gross income from fees or other compensation earned by a nonresident nonemployee independent director of a corporation for services performed in a fiduciary capacity for such corporation shall be income derived from sources within California if such corporation's commercial domicile, as that term is defined in Section 25120, subdivision (b), is in California, regardless of where such services are performed.

Note: Authority cited: Section 19503, Revenue and Taxation Code.

Reference: Sections 17041, 17951 and 17952, Revenue and Taxation Code.