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TAX ADVANTAGES OF MOVING TO NEVADA

Californians, whose top income tax rate is 13.3%, can lower their taxes when they move across the border to Nevada, which has no state income tax. Now that the new federal tax bill limits the deductibility of state and local taxes to a combined total of $10,000, a move to Nevada is one way to reduce tax exposure.

California law defines a resident as an individual who is (1) domiciled in the state, and who may be outside the state, periodically, for a temporary or transitory purpose, or one who is (2) in the state for other than a temporary or transitory purpose. In general terms, an individual can become a nonresident by acquiring a "domicile" (primary residence) in Nevada, begin living there on a regular basis, and, thereafter, limiting their time spent in California. The underlying theory of residency is that one is a resident of the place where one has the closest connections. The strength of those connections, and not just the number of connections, is of considerable importance in determining the state of residency. Because the determination of residency is completely subjective, the Franchise Tax Board looks to factors set forth in the California Supreme Court case Corbett v. Franchise Tax Board, which listed 29 residency factors that consider the state in which the following occurred:

1. Birth, marriage, raising family
2. Preparation of tax returns
3. Resident state income tax returns filed
4. Payment and receipt of income
5. Ownership and occupancy of custom built home
6. Service as officer and employee of business corporation
7. Holding of licenses for conduct of profession
8. Ownership of family corporation
9. Ownership and occupancy of vacation home
10. Ownership of cemetery lots
11. Church attendance
12. Church donations
13. Church membership and committee participation
14. Family doctors and dentist
15. Car registration
16. Driver's license of taxpayer
17. Driver's license of taxpayer's spouse
18. Voter registration and actual voting
19. Charge accounts

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20. Predominant banking and financial accounts
21. Accountant, lawyer, and professional advisors
22. Wills prepared and located
23. Education of children
24. Majority of time spent in that state
25. Country club membership
26. Intended state of residence
27. Presence of, and visits by, other family members
28. Social event attendance
29. Professional memberships

Once residency is established outside of California, an individual may totally eliminate their California income tax burden, or, at the very least, substantially reduce it. California residents are taxed by California on their worldwide income. Nonresident individuals are taxed only on their taxable income from California sources, if any. Generally, income which has a source "in" California would continue to be taxed by the state. Among the more common forms of income which may have a California source are:

- Income from personal services actually performed in California
- Income from "pass through" entities (such as partnerships, LLCs, or 'S' corporations) conducting business in California
- Income from rents or royalties arising from property located in California
- Gains from sales of real estate located in California
- Some forms of deferred compensation to the extent that the personal services were performed in California

Generally, income generated from intangible assets including interest income, dividend income, and significantly - capital gain income, is sourced to the state of residence of its owner. This includes, generally, capital gains on the sale of closely-held business interests, unless the sale is structured as a sale of tangible assets located in California. Income from qualified retirement plans, IRAs, and similar "retirement income" is generally sourced to the state of residence of its owner.

The information presented is necessarily general in nature. In evaluating the overall personal economic implications of any change in residency, including specific federal and state income tax consequences, the reader should first consult with qualified financial and income tax advisors in order to assist in the assessment of the specific financial and income tax consequences which would apply to the reader's specific situation.