

Coast-to-Coast Tax Residency: Comparing New York and California Residency Rules

By: Daniel P. Kelly & Joseph F. Tantillo, Esq.

Published Date: Aug 1, 2025

A few years ago, one of the authors [examined](https://www.hodgsonruss.com/media/publication/2004_Residency%20issues%20article%20_JMT%202018_.pdf) (https://www.hodgsonruss.com/media/publication/2004_Residency%20issues%20article%20_JMT%202018_.pdf) the trials and tribulations taxpayers face when navigating east-and-west-coast residency issues.[1] Over the last seven years, the world and individual tax residency considerations have undergone material change. Taxpayers still pursue changes in tax residency for all the classic reasons—retirement, a new job, health circumstances, or different weather—but there are several more recent residency motivators in play. The rise in remote work, the ability to locate flexible housing accommodations, working or owning a company without a brick-and-mortar office location, and numerous similar considerations all result in taxpayers reviewing, and potentially changing, their state tax residency.

Following the many lifestyle changes over the last several years, we examine California and New York's current residency rules and highlight planning considerations in both jurisdictions. After establishing the baseline residency tests and key residency considerations in both California and New York through this article, we will follow-up in a second article analyzing California and New York residency issues through a series of case studies modeled after real-life decisions, and with guidance for taxpayers to prepare for and defend residency challenges.

California's Income Tax Residency Rules

1. In California for other than temporary or transitory purposes, or
2. Domiciled in California, but outside the state for temporary or transitory purposes.[2]

The California residency stakes are high—individuals taxable as California residents are subject to California tax at one of the highest tax rates in the country on worldwide income.[3] A taxpayer's "domicile" is central to the determination of California residency, but an individual can be taxed as a California resident while maintaining a domicile outside of California. For example, an individual may be taxable as a California resident although not domiciled in California (1 above), and conversely an individual may be domiciled in California without being taxable as a resident (a variant of 2 above).[4] Let that sink in for a second.

Under California law, an individual may have several residences but can have only one domicile.[5] An individual is rebuttably presumed to be a California tax resident when the individual is present within California for more than nine months of a taxable year.[6] However, the converse is not true—there is no presumption of non-residency when an individual spends less than nine months of the year in California.

A. California Residency Based on Domicile

For California tax purposes, domicile is defined as the one location where an individual has the most settled and permanent connection, and the place an individual intends to return when absent.[7] An individual domiciled in California who leaves the state retains their California domicile so long as there is a definite intention of returning to California, regardless of the length of time or the reasons for the absence.[8] To change domicile away from California, a taxpayer must: 1) actually move to a new residence; and 2) intend to remain there permanently or indefinitely.[9] Intent when it comes to domicile is not determined from the individual's unsubstantiated statements; the individual's actions and declarations are also considered.[10] The burden of proof regarding a change of domicile is on the party asserting such change, [11] and a domicile once acquired is presumed to continue in that location until it is shown to have been changed.[12]

A recent precedential and unanimous decision by the California Office of Tax Appeals (OTA), *Appeal of Beckwith*, provides and reiterates guidance on how the California income tax authority, the Franchise Tax Board (FTB), and California's OTA determine a taxpayer's domicile and residency status.[13] The issue in *Beckwith* focused on when the Taxpayer changed his domicile into California. The Taxpayer conceded that he was a California domiciled resident as of Jan. 3, 2013, about three weeks after he received \$9 million of income from a sale transaction, and this income was not otherwise subject to California taxation on a nonresident basis. The California FTB asserted that the Taxpayer remained a Tennessee resident until Nov. 1, 2012, and then completed the move to California. The key California income tax issue boiled down to the Taxpayer's residency status between Nov. 1, 2012, and Jan. 3, 2013.

In cases like *Beckwith*, domicile is generally the threshold issue. The OTA examines several factors including a taxpayer's real property connections, physical presence/time spent in and out of California, location of a taxpayer's spouse and family, employment or business connections, and potentially dozens of other lifestyle and residency considerations. In *Beckwith*, the OTA concluded that the Taxpayer had changed his domicile from Tennessee to California by Dec. 19, 2012—the date of the sale of the taxpayer's business.

But the analysis in the *Beckwith* matter, like many taxpayers analyzing or defending their California residency status, did not stop at domicile. After settling the key date when Mr. Beckwith had changed domiciles into California, the OTA's attention turned to his presence inside, or outside, of California for "other than temporary or transitory purposes."

As described briefly above, California taxes individuals as residents who are domiciled outside of California, but who are in California for other than temporary or transitory purposes. California also taxes individuals as residents who are domiciled in California, and who are outside the state for temporary or transitory purposes. We dig into California's temporary or transitory purpose test, which is a critical aspect of California's residency analysis, below. Before we proceed, a takeaway for California residency purposes is that a taxpayer's "domicile" is central to the determination of tax residency status, but a taxpayer's domicile is not conclusive of their status as a California tax resident.

B. California Residency Based on Presence

Domicile is central to the question of state tax residency in California and New York (and in many other states). However, determining a taxpayer's domicile status in California—whether inside or outside of California—may not automatically resolve the residency inquiry. California's definition of tax resident also considers a taxpayer's connections in California for "temporary and transitory purpose[s]."

California can subject taxpayers domiciled in other states or countries to resident taxation if those non-California domiciled taxpayers are present in California for other than temporary or transitory purposes. Whether an individual is in or out of California for a temporary or transitory purpose is a question of fact to be determined by examining all the circumstances of each particular case.[14] The determination of an individual's presence in or out of California is not based solely on the individual's subjective intent, and must be based on objective facts.[15] One California case suggests the following framework for defining, or understanding, presence for a temporary or transitory purpose:

An absence for a specified duration of two years or less, and not indefinitely, has been held to be only temporary and transitory. However, a stay of less than two years will not automatically indicate a temporary or transitory purpose if the reason for the shortened stay is not inconsistent with an intent that the stay be long, permanent, or indefinite. An absence for employment or business purposes which would require a long or indefinite period to complete is not temporary or transitory. An "indefinite period," however, is not one of weeks or months but one of "substantial duration" involving a period of years.[16]

As this passage reflects, the lines of demarcation with respect to presence in or out of California for a temporary or transitory purpose are not always bright. As noted by the court in *Appeal of Crozier*, two years or less spent away from California may be a temporary or transitory purpose, but not if the facts suggest otherwise. As noted above, each taxpayer's case must be analyzed based on its specific facts, and their objective actions and intent when leaving California, or arriving in California, will impact the outcome.

Often in disputed California residency matters, the "temporary or transitory purpose" analysis shifts away from California's regulatory guidance on the issue, and toward an examination of where the taxpayer maintained the closest connection during the period in question. The underlying theory of California's definition of "resident" is that the state with which a person has the closest connection during the taxable year is the state of residence.[17] A taxpayer's contacts or connections in California compared to other states/places are often critical factors to consider when analyzing a taxpayer's California residency status.[18] The taxpayer's connections are compared, and used to determine whether the taxpayer was in or out of California for temporary or transitory purposes.[19]

C. California's Closer Connections Analysis

Before discussing California's "Closer Connections" tax residency analysis, let's review how we got here—and how a typical California residency audit could proceed. First, we asked where the Taxpayer was domiciled. Where was the Taxpayer's permanent, primary home during the period in question? Depending on the resolution of the domicile question, we then apply the corresponding prong of the California definition of tax "resident." Was the Taxpayer domiciled in Tennessee, but in California for other than temporary or transitory purposes? Or was the Taxpayer domiciled in California, and outside the State for temporary or transitory purposes?

After determining the Taxpayer's domicile status, we shift gears into the Taxpayer's presence in or out of California for other than temporary or transitory purposes. If the Taxpayer's facts require, California's regulations and case law apply the "closer connections" test to finally determine the Taxpayer's California residency status.

For the closer connections test, the FTB and OTA consider several objective factors and the weight given to any single factor depends on the totality of the circumstances.[20] The common "closest connections" factors and criteria used in California residency analyses are often split into three groups.

A taxpayer's "Registrations and Filings," "Personal and Professional Associations," and "Physical Presence and Property" are often used to determine a taxpayer's "closer connections" in or out of California. These groups of factors, which include a few dozen different discrete connections, are often referred to as the "Bragg" factors, following the 2003 California State Board of Equalization decision separating these factors into separate buckets. Since the *Bragg* decision, California courts have used and considered lists of the various factors.[21] Regardless of the exact group of factors considered (some of which may be inapplicable to certain taxpayers, and some of which may have increased importance to certain taxpayers, etc.), it is key to remember that each California residency case, and taxpayer, are unique. A taxpayer's California residency status will depend on the totality of the circumstances, and no list of factors is exclusive. To secure California nonresident tax status, from a domicile perspective and under the "temporary or transitory purpose" analysis, taxpayers should endeavor to maintain their most substantial and important connections in their claimed place of residence, when compared to the connections they continue to maintain in California.

Let's revisit the *Beckwith* case to highlight this portion of California's residency analysis. After finding the Taxpayer was domiciled in California by Dec. 19, 2012, the date of the sale of his business and large capital gain transaction, the OTA then: "turn[ed] to the question of whether appellant was outside California for a temporary or transitory purpose, such that appellant will continue to be treated as a California resident."

The OTA "closest connections" analysis, which had already been reviewed in large part through the domicile analysis, considered the facts unique to Mr. Beckwith. In the "closest connections" analysis, the OTA elevated his physical presence and the purpose of his stays in and out of California during 2012. The OTA highlighted the importance of a taxpayer's physical presence in the residency analysis, noting: "Indeed, physical presence is a factor of greater significance than mental intent and the formalities that tie one to a particular state."

Considering all the facts of the case, the OTA found against Mr. Beckwith, finding him to be a California resident on the date of December 2012 sale. The OTA stated: "Appellant maintained a permanent home in California, his fiancée was located in California and had no intention of moving, he spent the most time in California, and did not spend much time in Tennessee. Thus, we find that appellant availed himself of the benefits and protections of California the most, and consequently, is a California resident for tax purposes."

D. Concluding California's Residency Analysis

California's income tax residency test is premised first on a taxpayer's domicile status, and then on a taxpayer's status in or out of California for other than temporary or transitory purposes. There is a rebuttable presumption of California tax residency (nine months or more in California in a given tax year), and a potential residency safe harbor—for example, the 'retiree' safe harbor or one based on spending a certain number of days outside of California on a work-related contract.[22] When considering California tax residency, it is key to recognize the unique way California taxes resident individuals and to understand that dozens of potential factors—from daily considerations like where a taxpayer receives his or her Amazon packages, to major investments like where a taxpayer owns residential real property—all contribute to the final resolution of the taxpayer's residency status.

New York's Income Tax Residency Rules

New York State subjects resident individuals to personal income tax on their worldwide income.[23] Like California, the New York tax residency stakes are high. At the highest combined New York State and City rate, a NYS/NYC resident individual would pay close to 15 percent in personal income tax (10.9 percent NYS and 3.876 percent NYC), a staggering sum. New York's combined NYS/NYC rate barely exceeds California's highest marginal tax rate (13.3 percent with a potentially higher effective rate on wage compensation).[24]

It is critical to understand and plan around California's specific residency rules, and the same holds true in New York. New York's income tax residency test is different from California's, although both states' tax residency rules share similarities. Taxpayers with material connections in both New York and California should pay close attention to the asymmetry in each state's residency rules to avoid the potential for double taxation on a full resident basis in both places.

A. New York Residency Based on Domicile

Under New York's rules, residency for personal income tax purposes can be established through one of two tests. The first, and for many taxpayers most important, test is based on a taxpayer's domicile status. If a taxpayer is domiciled in New York State/City, then he or she is taxable as a New York State/City resident.[25] Like California, domicile for New York personal income tax purposes refers to the taxpayer's principal, primary, and permanent home. As a New York appellate court explained: "Domicile ... is established by physical presence coupled with an intent to establish a permanent home ... [o]nce established, an individual's original or selected domicile continues until there is a clear manifestation of an 'intent to acquire a new one.'"[26]

New York's core domicile rules are like California's domicile rules discussed above. In New York, a taxpayer's domicile remains in the place it historically was unless and until a new domicile is established.[27] The burden of proof with respect to a change of domicile is on the party asserting the change.[28] To successfully change domiciles, a taxpayer must prove the "leave" from New York and the "land" in the new jurisdiction.[29]

New York Tax Department auditors, like tax authorities and auditors in several jurisdictions across the Northeast,[30] are trained to review and consider five primary factors when analyzing a taxpayer's domicile status, along with several other factors. The five primary factors involve a comparison of a taxpayer's housing, active business, time, items near and dear (possessions), and family ties in New York, as well as the place they have claimed to move to.

The strength of a case under the five primary factors will often dictate a taxpayer's success in a New York domicile audit. In a New York residency audit and analysis, the primary factors are most important, and usually given more weight than the other factors and formalities a taxpayer may establish in their home state. The other factors—where a taxpayer's driver's license is issued, where they are registered to vote, where their vehicles are registered, their immigration status, and addresses used on correspondence—are important, but generally only considered when a taxpayer's case is inconclusive under the primary factors.[31] And the party asserting the change of domicile must prove it by clear and convincing evidence, which is a substantial burden of proof.[32]

In New York, just like in California, the totality of the evidence and the unique facts and circumstances of each case will finally decide the domicile issue. The New York Tax Department and New York courts considering domicile issues often look to see substantial shifts in a taxpayer's pattern of living around their claimed change of domicile, and to see if the primary factors favor the new domicile location over New York. Establishing a taxpayer's domicile status is critical in a New York residency audit. If a taxpayer is found to be domiciled in New York, the residency analysis may end—without any chance to apply a secondary "temporary or transitory" purpose analysis like in California, and a taxpayer may be subject to tax on worldwide income on a New York resident basis.[33]

B. New York's Secondary Statutory Residency Test

If a taxpayer is found not to be domiciled in New York or is a part-year domiciled New York resident, perhaps moving into or out of New York mid-year, the New York residency analysis is not over. New York's secondary residency test, which we refer to as statutory residency, must be considered and planned for.

Statutory residency may subject an individual domiciled elsewhere—in California, Florida, New Jersey, and so on—to full New York resident taxation for the year or years in question. Unlike New York's domicile test, which has a high level of subjectivity and requires analysis of dozens of factors and connections, statutory residency is more mechanical. The statutory residency test, for both New York State and City, has two conjunctive elements. First, a taxpayer spends more than 183 days in New York during the tax year (partial days generally count as full days toward this threshold). Second, a taxpayer must maintain a permanent place of abode (PPA) in New York for substantially all the year, which is presently defined by the New York Tax Department's nonresident audit guidelines as more than 10 months.[34]

There are, like most aspects of California's and New York's residency tests, nuances to consider in the "statutory" residency test. However, at a high level and by comparison to the domicile or temporary or transitory residency analyses, statutory residency is a bright-line test, like a speed limit. If a taxpayer is domiciled in another state or country, and either stays at or below 183 days in New York, he or she should not be subject to New York resident taxation. Or if a taxpayer is domiciled in another state or country, and does not maintain a PPA in New York, he or she should not be subject to statutory resident taxation. Taxpayers should keep this secondary New York residency test in mind, and be certain it does not cause New York resident taxation if they have otherwise secured or always maintained New York non-domicile status.

C. Concluding New York's Residency Analysis

New York's income tax residency tests are premised first on a taxpayer's domicile status, and then on a taxpayer's presence in New York for more or less than 183 days and their maintenance of a PPA in New York. There are limited exceptions to New York income tax residency (the 548-Day Test and the 30-Day Test) when a taxpayer is domiciled in New York, and the New York domicile and statutory residency analysis can be grueling, extending into the far corners of a taxpayer's life in a search to determine their intent.

When planning around New York tax residency, it is key to recognize the ways New York taxes resident individuals, and to understand that dozens of potential factors—from daily considerations like where a taxpayer receives his or her dental care, to more substantial factors like where a taxpayer spends their time—all contribute to the final resolution of a taxpayer's New York residency status.

Surveying State Tax Residency Across the United States

We took a deep dive into California and New York residency rules, and frankly we could go even farther in both states. What does the rest of the United States look like, in terms of state tax residency, by comparison? As this article highlights, state tax residency rules are specific, unique, and vary from place-to-place. It is difficult to generalize about state residency rules, given the different rules, nuances in application, case law, residency factors, safe harbors/ presumptions, and audit policies that different states have in place. We have focused on state tax residency for individuals in this article, and there may be different residency rules within the same states for estates, trusts, and other tax types.

At a high level, we can group the 50 States and Washington, D.C. into one of four categories:

- (1) similar to New York, imposing income tax on residents based on domicile and some version of "statutory" residency (days and/or abode requirements);
- (2) similar to California, imposing income tax on residents based on domicile and the taxpayer's status in or out of the state for temporary or transitory purposes;
- (3) "other" states that have similarities to New York and California, but apply unique standards based on domicile alone or based on domicile and days or factor-based presumptions;
- (4) the handful of often sought after states that do not impose an income tax on resident individuals.

The link to the map below places each state and Washington D.C. into one of these four buckets. Behind each category, a specific review of each state's residency rules is required for a Taxpayer to fully understand and plan for state tax residency. For example, Oregon has a "statutory" residency rule that requires an abode and 200 days per year in Oregon (along with other nuances), compared to New York's abode and 183-days-per year standard. North Carolina has a bit of everything, including a "domicile" residency standard, a "temporary or transitory purpose" residency standard, and a presumption that spending more than 183 days per year in the state constitutes being a tax resident. [35]

[Infographic of State Residency Rules \(/docs/default-source/tax-stringer/state-residency-rules.pdf?sfvrsn=dcb2d1f7_9\)](/docs/default-source/tax-stringer/state-residency-rules.pdf?sfvrsn=dcb2d1f7_9)

Summary

Taxpayers leaving New York or California, taxpayers with material ties in both New York and California, or taxpayers who live somewhere else but have material connections with New York or California, may face the challenge of complying with potentially confusing, intricate residency rules. And new issues brought to life by shifts following the COVID-19 pandemic and the resettling of taxpayers have further adjusted an already complex area of tax law. This article reviewed the more

common California and New York residency rules and considerations, and other state tax residency issues and permutations exist. The facts of each case will dictate the residency outcome, and with appropriate planning and recognition of the risks, many issues can be mitigated, and the taxpayer's preferred state tax residency outcome can be achieved.

After establishing the baseline residency tests and key residency considerations in both California and New York through this article, we will follow-up in a second article analyzing California and New York residency issues through a series of case studies modeled after real-life decisions, and with guidance for taxpayers to prepare for and defend residency challenges

Daniel P. Kelly is a member of Hodgson Russ's Tax Practice. He is licensed to practice in New York, California, and Florida, and focuses on a variety of state and local tax matters in jurisdictions across the United States. Dan has assisted tax clients with well over 1,000 tax and other legal matters, regularly advising individuals and businesses on different aspects of personal income tax, sales and use tax, corporate franchise tax, and several other lesser-known taxes. Dan's clients frequently rely on his guidance for tax planning around significant liquidity events; changing or establishing state and local tax residency; income, franchise, and sales tax substantial nexus issues; complex business income and earnings allocation issues; and related matters. He has extensive experience representing taxpayers in audits conducted by several tax jurisdictions, and represents taxpayers at various levels of tax controversy dispute resolution and appeal.

Joseph F. Tantillo, Esq., is a member of Hodgson Russ's Tax Practice. He is licensed to practice in New York, California, and Washington, D.C., and focuses on a multitude of state and local tax matters in jurisdictions across the United States. Joe works to simplify the ins-and-outs of the New York State Department of Taxation and Finance for his clients. During his tenure, he has worked on hundreds of audits, allowing him to help craft nuanced strategies focused on efficiently resolving each client's audit across various tax types, including personal income tax, sales and use tax, corporate franchise tax, and several other lesser-known taxes. Joe also counsels clients moving out of New York and California through the residency planning process – including helping to develop a legally-grounded strategy for a move that aims to help clients strengthen their change of domicile position. In addition to his work with clients, Joe also is the host of the first ever Hodgson Russ LLP podcast, "State Tax Talks with Joe Tantillo."

[1] Daniel P. Kelly, *Coast-to-Coast Residency Issues: New York and California*, Journal of Multistate Taxation and Incentives Volume 28, Number 2 (May 2018).

[2] Cal. Rev. & Tax Code §§17014(a)(1), (2); Cal. Code Regs. tit. 18, §17014(a) ("If an individual is domiciled in [California], he remains a resident unless he is outside of this State for other than temporary or transitory purposes.")

[3] See *State Individual Income Tax Rates and Brackets, 2025*, TaxFoundation (available here: <https://taxfoundation.org/data/all/state/state-income-tax-rates/> (<https://taxfoundation.org/data/all/state/state-income-tax-rates/>)); California residents can often claim a credit for taxes paid to another state on income derived from that other state which is also taxed by California (determined using California's rules and subject to specific limitations) Cal. Rev. & Tax. Code section 18001(a).

[4] Cal. Code Regs. 18 §17014(a).

[5] Cal. Code Regs., tit. 18, § 17014(c); *Whittell v. Franchise Tax Bd.*, 31 Cal.App.2d 278, 284 (1964).

[6] Cal. Rev. & Tax. Code sec. 17016

[7] *Appeal of Bragg*, Cal. St. Bd. of Equal., 2003-SBE-002 (May 28, 2003); Cal. Code Regs., tit. 18, § 17014(c)

[8] Cal. Code Regs., tit. 18, §17014(c)

[9] *Appeal of Bragg*, Cal. St. Bd. of Equal., 2003-SBE-002 (May 28, 2003)

[10] See *Noble v. Franchise Tax Bd.*, supra, 118 Cal.App.4th at pp. 567-568 (2004).

[11] *Appeal of Bragg*, Cal. St. Bd. of Equal., 2003-SBE-002 (May 28, 2003)

[12] *Appeal of Mazer*, 2020 OTA 263P, July 23, 2020.

[13] *Appeal of Beckwith*, 2022-OTA-332P, July 28, 2022.

[14] Cal. Code Regs., tit. 18, § 17014(b).

[15] *Appeal of Berner* (2001-SBE-006-A) 2002 WL 1884256.

[16] *Appeal of Crozier* (92-SBE-005) 1992 WL 92339

[17] Cal. Code Regs., tit. 18, § 17014(b)

[18] *Appeal of Mazer*, 2020 OTA 263P, July 23, 2020.

[19] *Id.*

[20] *Appeals of Stephen D. Bragg*, Cal. St. Bd. of Equal., 2003-SBE-002 (May 28, 2003); *Matter of Jerome James*, Cal. St. Bd. of Equal., Docket No. 596166 (Feb. 26, 2013) (non-precedential decision)

[21] *Appeals of Stephen D. Bragg*, Cal. St. Bd. of Equal., 2003-SBE-002 (May 28, 2003); *Appeal of Mazer*, 2020 OTA 263P, July 23, 2020 (citing *Appeal of Bragg*).

[22] Cal. Rev. & Tax. Cd. § 17016; Cal. Rev. & Tax. Cd. § 17014

[23] N.Y. Tax Law § 612(a); New York also provides residents a credit for taxes paid to other jurisdictions subject to certain limitations, N.Y. Tax Law § 620(a); California residents may be limited when trying to claim a credit against California taxes for taxes paid to New York City, compared to New York State. See *In re Appeal of S. Mather and N. Mather*, OTA Case No. 18093787 (Cal. Tax App. Feb. 16, 2024).

[24] See Instructions for Form IT-201 (available here: <https://www.tax.ny.gov/forms/html-instructions/2024/it/it201i-2024.htm> (<https://www.tax.ny.gov/forms/html-instructions/2024/it/it201i-2024.htm>)); see also 2024 Instructions for Form 540, Personal Income Tax Booklet (available here: <https://www.ftb.ca.gov/forms/2024/2024-540-booklet.html> (<https://www.ftb.ca.gov/forms/2024/2024-540-booklet.html>)).

[25] N.Y. Tax Law §605(b) ; NYCRR 20 §105.20

[26] *Abdelaziz El-Tersli v. Commissioner*, 787 N.Y.S.2d 526 (3d Dep't 2005) (citing *Matter of Kornblum v. Tax Appeals Trib. of N.Y.*, 651 N.Y.S.2d 740 (1997)); see also N.Y. Comp. Codes R. & Regs. tit. 20, §105.20(d)(2).

[27] *Matter of Newcomb*, 192 NY 238 (Ct. App. 1908); see also *Matter of Bodfish*, 50 AD2d 457 (1976).

[28] *Id.*

[29] *Matter of Ingle*, Tax Appeals Tribunal (December 1, 2011) (explaining that the evidence in the record must establish that the taxpayer "had an absolute and fixed intention to abandon [her New York domicile] and acquire another.").

[30] NESTOA, "Cooperative Agreement on Determination of Domicile" (ratified Nov. 1996); see also list of NESTOA member states, including Maryland, Delaware, New Jersey, Pennsylvania, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Maine, and the District of Columbia (available at: <https://taxadmin.org/northeastern-states-tax-officials-association-nestoa/> (<https://taxadmin.org/northeastern-states-tax-officials-association-nestoa/>)).

[31] 2021 Nonresident Audit Guidelines, p. 30-31.

[32] *Matter of Bodfish*, *supra*.

[33] *But see*, New York's 548-Day Rule, N.Y. Tax Law section 605(b)(1)(A), 20 NYCRR section 105.20(b)(2). A domiciliary that meets the 548-Day rule is *not considered a resident* for income tax purposes during any part of that 548-Day period, if they meet all statutory requirements of the rule. See also, New York's 30-Day Rule, 20 NYCRR 105.20(b)(1). Under the 30-Day Rule, a domiciliary that (1) spends less than 30 days in New York during the calendar year, (2) has no permanent place of abode in New York, and (3) maintains a permanent place of abode elsewhere is *not considered a resident* for income tax purposes.

[34] N.Y. Tax Law section 605(b)(1)(B); N.Y. Comp. Codes R. & Regs. tit. 20, section 105.20(a)(2).

[35] N.C. Gen. Stat. § 105-153.3(15), "Resident. An individual who is domiciled in this State at any time during the taxable year or who resides in this State during the taxable year for other than a temporary or transitory purpose. In the absence of convincing proof to the contrary, an individual who is present within the State for more than 183 days during the taxable year is presumed to be a resident, but the absence of an individual from the State for more than 183 days raises no presumption that the individual is not a resident. A resident who removes from the State during a taxable year is considered a resident until he has both established a definite domicile elsewhere and abandoned any domicile in this State. The fact of marriage does not raise any presumption as to domicile or residence."

Trending Articles

- [Senate Passes Inflation Reduction Act: Here are the Key Tax Provisions \(/news/publications/the-trusted-professional/article/senate-passes-inflation-reduction-act-here-are-the-key-tax-provisions-080822\)](#)
- [A Deeper Look at the Major Tax Provisions of the 2022 Inflation Reduction Act \(/news/publications/the-trusted-professional/article/a-deeper-look-at-the-major-tax-provisions-of-the-2022-inflation-reduction-act-080122\)](#)
- [As Biden Signs Inflation Reduction Act, Analysts Weigh in on Corporate Tax Provisions \(/news/publications/the-trusted-professional/article/as-biden-signs-inflation-reduction-act-analysts-weigh-in-on-corporate-tax-provisions-081622\)](#)
- [PCAOB Report: 'Unacceptably High' Deficiency Rates in Broker-Dealer Audits \(/news/publications/the-trusted-professional/article/pcaob-report-unacceptably-high-deficiency-rates-in-broker-dealer-audit-inspections-082222\)](#)
- [KPMG to Consolidate Employees in New Headquarters \(/news/publications/the-trusted-professional/article/kpmg-to-consolidate-employees-in-new-headquarters-082522\)](#)

(<https://servedbyadbutler.com/go2/?ID=165519;size=300x250;setID=294893>) (<https://servedbyadbutler.com/go2/?ID=165519;size=300x250;setID=820062>)

Views expressed in articles published in Tax Stringer are the authors' only and are not to be attributed to the publication, its editors, the NYSSCPA or FAE, or their directors, officers, or employees, unless expressly so stated. Articles contain information believed by the authors to be accurate, but the publisher, editors and authors are not engaged in rendering legal, accounting or other professional services. If specific professional advice or assistance is required, the services of a competent professional should be sought.