

# Australian Taxation (Residence Rules)

Australia's tax jurisdiction is based upon the *residence* of the taxpayer and their *source* of income. These principles are utilised in Section 6-5 of the *Income Tax Assessment Act 1997* ("ITAA 1997") which provides:

The assessable income of a taxpayer shall include:

- (a) for resident taxpayers - the gross income derived directly or indirectly from all sources whether **in or out** of Australia; and
- (b) for non-resident taxpayers - the gross income derived directly or indirectly from all sources **in** Australia.

The effect of the law is to bring into the assessable income of resident taxpayers their *worldwide* income, and for non-resident taxpayers their *Australian sourced* income only.

It is therefore important when determining tax liability to make decisions regarding *residence*.

Section 995-1 of the ITAA 1997 provides that the meaning of an "Australian resident" is defined in section 6(1) of the *Income Tax Assessment Act 1936* (ITAA 1936), which provides the tests of residence for *individuals*. They are particularly important for migrants to *determine whether they are residents for taxpaying purposes*. The four relevant tests of residence for *individuals* are:

- 1) an individual is regarded as a resident if he/she has been in Australia for more than one half of the year of income (ie. more than 183 days).
- 2) an individual is a resident of Australia if the person's usual place of residence is in Australia and he/she maintains a home in Australia during the absence.
- 3) a person is treated as a resident if he/she has an Australian domicile, unless it is held that the person's permanent place of abode is outside Australia.
- 4) the establishment of a proper "superannuation fund" in Australia.

Similarly, Section 6 of ITAA 1936 provides three rules for determining whether a *company* is an Australian resident for taxation purposes. These rules are based on:

- 1) the place of incorporation of the company. If the company is incorporated in Australia, it will be treated as an Australian resident.
- 2) the place of *management and control* of the company. If the company carries on business and has its *central management and control* in Australia, it will be treated as a resident.
- 3) shareholders. A company will be treated as a resident of Australia if it carries on business in Australia and has its *voting power controlled* by Australian resident shareholders.

## Income Tax Rates

Below are four (4) tables being *Resident* tax rates for 2007-2008 to 2010-2011.

### a) Residents

#### Tax Rates: 2007-2008

Tax thresholds income range \$	Tax Rate %
0 - 6,000	0
6,001 ó 30,000	15
30,001 ó 75,000	30
75,001 ó 150,000	40
150,001 +	45

Page 2 of 2 - Australian Taxes (Residence Rules)

Tax Rates: 2008-2009

Tax thresholds income range \$	Tax Rate %
0 ó 6,000	0
6,001 ó 34,000	15
34,001 ó 80,000	30
80,001 ó 180,000	40
180,001 +	45

Tax Rates: 2008-2009

Tax thresholds income range \$	Tax Rate %
0 ó 34,000	29
34,001 ó 80,000	30
80,001 ó 180,000	40
180,001 +	45

Tax Rates: 2009-2010

Tax thresholds income range \$	Tax Rate %
0 ó 6,000	0
6,001 ó 35,000	15
35,001 ó 80,000	30
80,001 ó 180,000	38
180,001 +	45

Tax Rates: 2009-2010

Tax thresholds income range \$	Tax Rate %
0 ó 35,000	29
35,001 ó 80,000	30
80,001 ó 180,000	38
180,001 +	45

Tax Rates: 2010-2011

Tax thresholds income range \$	Tax Rate %
0 ó 6,000	0
6,001 ó 37,000	15
37,001 ó 80,000	30
80,001 ó 180,000	37
180,001 +	45

Tax Rates: 2010-2011

Tax thresholds income range \$	Tax Rate %
0 ó 37,000	29
37,001 ó 80,000	30
80,001 ó 180,000	37
180,001 +	45

**b) Non-residents**

If you are a non-resident for the full year, the following rates apply:

Tax Rates: 2007-2008

Tax thresholds income range \$	Tax Rate %
0 - 30,000	29
30,001 ó 75,000	30
75,001 ó 150,000	40
150,001 +	45

**c) Company Tax**

As of 1 July 2003, the Australian company tax rate is **30%**.

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**Important:** This is not advice. Clients should not act solely on the basis of the material contained in this paper. Our formal advice should be sought before acting on any aspect of the above information.

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