



ezytax
BLUE

chapter 1
introduction

CHAPTER 1 – INTRODUCTION

The Australian Tax Year runs from 1st of July until the 30th of June the following year.

REQUIREMENTS FOR LODGEMENT

When

The “Tax Season” runs from the 1st of July until the 31st of October. Normally Tax Agents are granted extensions to lodge after this date for their clients. Tax payers can apply for an extension themselves, however they must do this before the 31st of October.

Where

Taxpayers are required to lodge their tax with the Australian Tax Office covered by their postcode. Tax Agents are designated a specific Tax Office.

Who

Details of who must lodge a tax return are detailed in the Tax Commissioner's Annual Lodgement Gazette Notice. As a general rule, **Residents** of Australia pay Australian tax on their worldwide income, whilst **Non-residents** pay tax only on income from Australian sources.

Various tests are used to determine an individual's residency status for tax purposes. These are not the same residency tests used by other Australian agencies for alternative purposes, such as immigration.

A summary of taxpayers “who must lodge” a tax return are –

Reason 1

During 2022-23, you were an [Australian resident](#) and you:

- paid tax under the pay as you go (PAYG) withholding or instalment system, or
- had tax withheld from payments made to you.

Reason 2

You were eligible for the senior Australians tax offset and your rebate income (not including your spouse's) was more than:

- \$32,279 if you were single, widowed or separated at any time during the year

- \$31,279 if you had a spouse but one of you lived in a nursing home or you had to live apart due to illness, or
- \$28,974 if you lived with your spouse for the full year.

Reason 3

You were not eligible for the senior Australians tax offset but you received a payment listed at question 5 and other taxable payments which when added together made your taxable income more than \$20,542.

Reason 4

You were not eligible for the senior Australians tax offset but you received an Australian Government pension, allowance or payment listed at question 5 or question 6 and your taxable income was more than:

- \$18,200 if you were an Australian resident for tax purposes for the full year
- \$416, if you were under 18 years old at 30 June 2023 and your income was not salary or wages
- \$1 if you were a foreign resident and you had income taxable in Australia which did not have non-resident withholding tax withheld from it, or
- your part-year tax-free threshold amount if you became or stopped being an Australian resident for tax purposes

You must lodge a tax return if any of the following applied to you:

- you had a reportable fringe benefits amount on your *PAYG payment summary - individual non-business* or *PAYG payment summary - foreign employment*
- you had reportable employer superannuation contributions on your *PAYG payment summary - individual non-business* or *PAYG payment summary - foreign employment*
- you were entitled to the private health insurance tax offset - see question T5 - Private health insurance
- you carried on a business
- you made a loss or you can claim a loss you made in a previous year
- you were 60 years old or older and you received an Australian superannuation lump sum that included an untaxed element
- you were under 60 years old and you received an Australian superannuation lump sum that included a taxed element or an untaxed element.
- you were entitled to a distribution from a trust or you had an interest in a partnership and the trust or partnership carried on a business of primary production

- you were an Australian resident for tax purposes and you had exempt foreign employment income and \$1 or more of other income. (See what is meant by exempt foreign employment income at question 20 - Foreign source income and foreign assets or property. For 2009-10 and subsequent years, there are changes limiting the exemption for foreign employment income.)
- you are a special professional covered by the income averaging provisions. These provisions apply to authors of literary, dramatic, musical or artistic works; inventors; performing artists; production associates and active sportspeople
- you received income from dividends or distributions exceeding \$18,200 (or \$416 if you were under 18 years old on 30 June 2023) and you had:
 - franking credits attached, or
 - amounts withheld because you did not quote your tax file number or Australian business number to the investment body
- you made personal contributions to a complying superannuation fund or retirement savings account and will be eligible to receive a super co-contribution for these contributions
- you were either a liable parent or a recipient parent under a child support assessment unless you received Australian Government allowances, pensions or payments (whether taxable or exempt) for the whole of the period 1 July 2022 to 30 June 2023 and the total of all the following payments was less than \$22,379:
 - taxable income
 - exempt Australian Government allowances, pensions and payments
 - target foreign income (see IT4 - Target foreign income)
 - reportable fringe benefits
 - net financial investment loss (see IT5 - Net financial investment loss)
 - net rental property loss (see IT6 - Net rental property loss), and
 - reportable superannuation contributions.
- Deceased estate -If you are looking after the estate of someone who died during 2022-23 consider all the above reasons on their behalf, and if a tax return is not required complete Non-lodgment advice on the next page and send it to us. If a tax return is required, see Completing individual information on your tax return for more information.
- Franking credits - If you don't need to lodge a tax return for 2022-23, you can claim a refund of franking credits by using the publication Refund of franking credit instructions and application for individuals 20123 (NAT 4105) and lodging your claim by mail or phone 13 28 65.
- First home saver account.

- If you had a first home saver account in 2022-23 and believe you are entitled to a first home saver account government contribution, you must lodge either: a tax return, or a notification of eligibility (if you are not required to lodge a tax return and you were an Australian resident for at least part of 2017-18) by completing the form First home saver account notification of eligibility (NAT 72947).

A taxpayer can only submit one tax return per year. If an error is made they can amend their existing return.

OTHER SPECIFIC REQUIREMENTS

The following represents practical points of detail, which should be remembered or applied to all tax returns-

- All records (receipts, cheque butts, etc) must be kept in **English**.
- These records must be kept for **five years**.
- For manual lodgement the tax return must be signed. For electronic lodgement the tax declaration form (ELS) must be signed.
- All cents will be ignored on income. Normal rounding off will apply to deductions.
- Tax withheld will be shown in whole dollars only.
- No dots, dashes, full stops, or \$ signs appear on the return.
- Any income tax returns prepared for a fee must be signed in the certificate area by the registered Tax Agent.

RESIDENCY

A person is either a “**resident**” or a “**non-resident**” for taxation purposes. Residency is important because residents and non-residents pay tax at different rates. It is important to note that tax residency and citizenship are not the same. It is possible to be a resident of Australia for tax purposes and not be a citizen, and vice versa.

The key differences between a resident and a non-resident are:-

1. Non-residents pay a higher rate of personal income tax than residents.
2. Non-residents do not pay the Medicare Levy.
3. Non-residents will only declare on their tax return the income they earn in Australia, whereas residents must declare income from Australia and overseas (worldwide income).
4. Non-residents pay tax at various rates depending on the type of income (interest, dividends, rental income).

Are you a resident?

Generally, we consider you to be an Australian resident for tax purposes if:

- you have always lived in Australia or you have come to Australia and live here permanently
- you have been in Australia continuously for six months or more, and for most of that time you worked in the one job and lived at the same place
- you have been in Australia for more than six months during 2022–23, unless your usual home is overseas and you do not intend to live in Australia
- you go overseas temporarily and you do not set up a permanent home in another country, or
- you are an overseas student who has come to Australia to study and are enrolled in a course that is more than six months long.

There are four main tests for residency, namely:

- Resides
- Domicile
- 183 Day rule, and
- Superannuation.

The following factors may be taken into account in determining where a person resides:

- Intention or purpose of presence
- Family and business/employment ties
- Maintenance and location of assets
- Social and living arrangements.

Intention or purpose of presence

Often a person's stated intentions will be in contrast to their intentions as shown through their behaviour or actions.

Example of resident.....

Mark expressly states that he has no intention of staying in Australia. However, the way he has organised his personal life (bank accounts, 12 months lease on rental property) reveals that he is well prepared for a lengthy or ongoing stay. In this case, Mark is likely to be considered a resident for tax purposes.

Example of non-resident.....

Julie states that she intends to stay in Australia for at least the next 10 years. Unfortunately, her visitor's visa only permits her to stay in Australia for a period of 6 months. The visa also forbids her to apply for a permanent resident's visa while in Australia. The transitory nature and short duration of Julie's stay means that she will not be considered to be resident of Australia for income tax purposes.

Family and business/employment ties

The presence of a person's family may indicate that the person resides in Australia.

Example.....

Don comes to Australia to work. His wife and four children remained in Scotland. Don's behaviour is not generally consistent with the activities associated with residing in a particular place. However, the absence of his family does not mean that he will never be regarded as residing here. Factors like the state of the marital relationship could have a bearing on this.

Maintenance and location of assets

The place where a person organises their financial affairs (for example paying bills, operation of bank accounts, insurance policies and so on) is an indicator of where a person resides.

Acquisition and maintenance of assets are also indicators that a person intends to reside in Australia and can include:

- a dwelling (purchase or leased)
- motor vehicles, and

- household effects.

However, maintaining a place of residence is not the same as actually residing in that place. A person may have residences in various countries, but this does not mean that they would be considered to reside in each of those countries during a particular income year.

Social and living arrangements

In applying this factor, consideration will be given to the ordinary course of a person's life. To establish what is the ordinary course of a person's life, their actions and habits prior and subsequent to the period in question should be examined. The place where the person carried out the ordinary course of their life is usually considered their country of residence.

A person's social life and living arrangements may include:

- playing social sports in a local competition
- being a member of local community club,
- enrolling children at the local school.

Work commitments may require them to visit different countries frequently and they may not establish a permanent home in any country. However, it will be the place where they carry out the above activities that will most likely be considered their country of residence.

Physical presence

For a person to reside in Australia they need to display behaviour over a period of time that is consistent with residing here such as:

- a degree of continuity
- routine, or
- habit (Refer too *Taxation Ruling TR 98/17: Income tax: residency status of individuals entering Australia*)

Hence, the period of time that an individual spends in Australia is not, by itself, decisive in determining a person's residency status.

In paragraph 22 of *TR 98/17*, the Commissioner considers that six months is a considerable time when deciding an individual's behaviour is consistent with residing here. That is not to say that an individual here for less than six months will always be considered a non-resident and an individual here for more than six months will always be considered a resident. It is a combination of the factors of time and behaviour while in Australia that will determine a person's residency status.

WORKING HOLIDAY MAKERS

For working holiday makers, the first \$45,000 of their income is taxed at 15% and the balance is taxed at ordinary rates. You are a working holiday maker if you have a visa subclass:

- 417 (Working Holiday)
- 462 (Work and Holiday).

Working holiday makers are considered non residents for tax purposes.

Employers of working holiday makers are required to register with the Australian Tax Office. Working holiday makers do not register.

Registered employers will withhold tax from the working holiday maker's pay at 15% on the first \$45,000 of income.

If the employer is **not** registered as an employer of working holiday makers, they must withhold tax using foreign resident tax rates. Foreign resident tax rates start at 32.5%.

Working holiday maker's employers also have to pay super and when the working holiday makers leave Australia they can apply to have their super paid as a Departing Australia Superannuation Payment (DASP). The tax on any DASP made to working holiday makers on or after 1 July 2017 is 65%.

Most people who come to Australia on a WHM or visit are not Australian residents. This is because most backpackers, consistent with their visa requirements, do not intend to stay in Australia, they only intend to have a holiday while working some of the time. However, if your behaviour and purpose for being in Australia changes, you may be considered an Australia resident. This is where its important to consider the residency tests. For example, a backpacker may decide to live in one location and work for 12 months, developing routines associated with work and social/living arrangements. If this occurs, you will become an Australian resident for tax purposes at the time your behaviour changes. If you intend to migrate to Australia, or live and work in Australia for one employer, you may be an Australian resident from the time you arrive in Australia (see example below).

Example: Migrate to Australia

Martina always wanted to migrate to Australia. She has no assets other than her bank account and suitcase. Migrating was easier said than done, so she entered Australia on a 12-month 462 work and holiday visa, hoping that would provide an opportunity to speed things up.

Martina obtains a fixed contract of employment for six months in Melbourne, opens an Australian bank account by transferring the balance of her overseas account to it, joins the local soccer team as the goalkeeper and enrolls in the local community college to improve her English skills. Martina would like to live in Melbourne, but cannot afford to lease a flat, so she settles for a room in a shared house.

Martina takes steps to determine if she can stay after her visa expires. But she must return home and apply to migrate through normal channels, which she does immediately upon her return. She has established some referees during her stay.

- **Decision** – Martina is a resident from when she first arrived. Her behaviour from when she arrived was consistent with being a resident.

Remember: factors to consider when determining residency, and no one factor is decisive:

- your purpose for being in Australia
- how you actually live (not what you say)– if you are a resident this usually means you have a settled life in Australia and your daily life closely resembles your life prior to coming to Australia – for example
 - you have a fixed place of abode
 - you have established close community or family ties
 - you have invested in long term assets
 - you are not a tourist or a visitor

What this means for a WHM

WHM income tax rates will continue to apply at the 15% rate (regardless of whether you are a resident or not). You do not need to lodge a tax return or non-lodgement advice if all of the following apply:

- All the income you earn was as a salary and wages while you were a WHM.
- Total of your taxable income for the income year was less than the following
 - \$37,001 in 19-20 and earlier income years
 - \$45,001 in 20-21 and later income years

As shown in the tables below, there are different tax rates depending upon one's residency status.

RESIDENT TAX RATES 2022-23

| Taxable income | Tax on this income |
|-----------------------|--|
| 0 – \$18,200 | Nil |
| \$18,201 – \$45,000 | 19 cents for each \$1 over \$18,200 |
| \$45,001 – \$120,000 | \$5,092 plus 32.5 cents for each \$1 over \$45,000 |
| \$120,001 – \$180,000 | \$29,467 plus 37 cents for each \$1 over \$120,000 |
| \$180,001 and over | \$51,667 plus 45 cents for each \$1 over \$180,000 |

FOREIGN RESIDENT TAX RATES 2022-23

| Taxable income | Tax on this income |
|-----------------------|--|
| 0 – \$120,000 | 32.5 cents for each \$1 |
| \$120,001 – \$180,000 | \$39,000 plus 37 cents for each \$1 over \$120,000 |
| \$180,001 and over | \$61,200 plus 45 cents for each \$1 over \$180,000 |

WHM (Visa 417 or Visa 462) 2022-23

| Taxable income | Tax on this income |
|-----------------------|--|
| 0 – \$45,000 | 15% |
| \$45,001 – \$120,000 | \$6,750 plus 32.5 cents for each \$1 over \$45,000 |
| \$120,001 – \$180,000 | \$31,125 plus 37 cents for each \$1 over \$120,000 |
| \$180,001 and over | \$53,325 plus 45 cents for each \$1 over \$180,000 |

RESIDENCY IN MYOB

The tax return automatically assumes residency for tax purposes. If the client was a *non-resident* for the **full** income year, you specify this on the **Front Cover** of the tax return. Change the Y to N, as shown below. This will automatically apply the correct tax rates.

The screenshot shows the 'Front cover' tab of the 'Individual tax return 2020' form. The period is set from 01/07/2019 to 30/06/2020. The 'Your tax file number (TFN)' field is empty. The question 'Are you an Australian resident?' has a dropdown menu with 'Y' selected, which is circled in red. Below it, 'Have you included any attachments?' has 'N' selected. The 'Your name' section shows 'Mr' as the title, 'Training' as the surname, and 'Tax' as the given name. A message box states: 'Due to the Attorney General's Department's new Identity Proofing Standards, you may no longer request a change of name for an individual. Go to <https://www.ato.gov.au/updatedetails> or phone 13 28 61 to find out how to update your details.'

If the client were a non-resident for **part** of the income year, you must enter accordingly in the **adjusting tab**. At **A2**, you enter the date they start and end date of their Australian residency status. At **N**, MYOB will calculate how many months they are eligible for the TFT.

The screenshot shows the 'Adj Credits' tab of the 'Non-resident foreign income' form. The 'A2 Part-year tax-free threshold' section has 'Australian residency start' and 'End date' fields highlighted with a pink box. The 'Months eligible for threshold' field has 'N' selected, which is circled in red.

WHM must be entered as non-resident on the Front Cover and then choose Y at Item 1.