

## Residency for tax purpose

The residence of a taxpayer is important since under s.6.5 and s.6-10 of the ITAA97, the assessable income of a resident includes the ordinary and statutory income derived from all sources which is not exempt income.

A non resident is only liable to tax on ordinary income and statutory income which has an Australian source.

### Individuals

For individuals, their residence is question of fact and degree. s.6(1) of ITAA36 states that a resident of Australia includes a person:

1. whose domicile is in Australia, unless the Commissioner is satisfied that his permanent place of abode is outside of Australia;
2. who has actually been in Australia continuously or intermittently, during

more than one-half of the year of income, unless the Commissioner is satisfied that his usual place of abode is outside Australia and that he does not intend to take up residence in Australia; or

3. who is an eligible employee for the purpose of the Superannuation Act 1976 or the spouse or a child under 16, of a person covered above.

### *Example:*

Emily leaves Australia to work in Japan as a teacher of English.

She has a one-year contract, after which she plans to tour China and other parts of Asia before returning to Australia to resume work here.

During her time in Japan, she lives with a family who treat her as one of their own.

She rents out her property in Australia during her absence.

Emily is single. Her parents live interstate, and her brother has moved to France.

### **Outcome: why is Emily considered a resident?**

Even though Emily is residing in Japan, under the domicile test:

- her domicile is in Australia (a resident who has always lived in Australia will generally retain a domicile here when they are absent overseas, unless they choose to permanently migrate to another country), and
- her permanent place of abode remains in Australia.

You might need to lodge a tax return if your taxable income exceeded the following amount:

- \$6000 – if you were an Australian resident for tax purposes.
- \$1 – if you were a non-resident and you had income taxable in Australia – excluding income that had non-resident withholding tax withheld from it.