

Exempt foreign employment income

If you are an Australian resident for tax purposes, you pay tax in Australia on your employment income from foreign service unless it is exempt from Australian tax.

From 1 July 2009, the exemption for foreign employment income derived by an Australian resident working overseas as an employee for a continuous period of 91 days or more is limited to income from particular employment.

IS YOUR FOREIGN EMPLOYMENT INCOME EXEMPT FROM TAX?

Your foreign employment income is exempt from tax if **all** of the following apply:

1. you are a resident of Australia
2. you are engaged in continuous foreign service as an employee for 91 days or more
3. your foreign earnings are not excluded from exemption by the non-exemption conditions.
4. your foreign service is directly attributable to any of the following:
 - a. delivery of Australian official development assistance by your employer
 - b. activities of your employer in operating a public fund declared by the Treasurer to be a developing country relief fund, or a public fund established and maintained to provide monetary relief to people in a developing foreign country that has experienced a disaster

(a public disaster relief fund)

- c. activities of your employer as a prescribed charitable or religious institution exempt from Australian income tax
- d. because it is located outside Australia or the institution is pursuing objectives outside Australia
- e. deployment outside Australia by an Australian government (or an authority thereof) as a member of a disciplined force

If your foreign service is not directly attributable to the activities mentioned above, it will not be exempt under the foreign employment exemption. You will need to include the foreign employment income in your tax return as assessable income.

You may be entitled to a foreign income tax offset for amounts of foreign tax you have paid.

WHAT IF YOUR FOREIGN EMPLOYMENT IS NOT EXEMPT FROM TAX?

Australian resident individuals are taxed on their worldwide income. This means you must include all foreign-source income in your income tax return. If you have paid foreign tax on this income, you may be entitled to a non-refundable foreign income tax offset for the foreign tax you paid.

If your Australian employer is still paying you while you are working overseas, they must withhold tax from any non-exempt foreign employment income. This also applies to any

foreign employer that is registered for Australian pay as you go (PAYG) withholding.

If you were employed by a foreign employer that is not registered for Australian PAYG withholding, it is unlikely that any amount will be withheld for Australian tax purposes. If

the income is assessable, the foreign income will form part of your PAYG instalment income and you may be entitled to a non-refundable foreign income tax offset for the foreign tax that you paid.

COMPLETING YOUR TAX RETURN

Generally, you must declare foreign employment income you earn that is exempt from Australian tax as it is taken into account to work out the amount of tax you have to pay on your assessable income. In other words, whilst your exempt foreign employment income is not taxed in Australia, it will affect the tax you are liable to pay on any other income you earn.

You are not entitled to a foreign income tax offset for any foreign tax you pay on your exempt foreign employment income.

For more details: <http://www.ato.gov.au/individuals/content.asp?doc=/content/28908.htm>

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