

This article discusses Australia's taxation laws in regards to residency, and sets out recent tax rates for both resident and non-resident taxpayers.

These principles are found in Division 6-5 of the Income Tax Assessment Act 1997 ("ITAA 1997"), and they are summarised below.



A. RESIDENT VS NON-RESIDENT TAXATION

Division 6-5 of the ITAA 1997 provides that:

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.

B. HOW DO YOU DETERMINE RESIDENCY FOR TAXATION PURPOSES?

'Australian resident' is defined in section 6(1) of the Income Tax Assessment Act 1936 ("ITAA 1936"), as referred to in section 995-1 of the ITAA 1997. This outlines the tests used to determine residency of individuals. These tests are particularly important for migrants determining whether they are residents for tax 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 their 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.



AUSTRALIAN TAXATION (RESIDENCE RULES)

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C. TAX RATES 2023-2024

C.1. RESIDENT TAX RATES 2023-2024

Taxable Income (\$)	Tax Rate (%)
0—18,200	0
18,201—45,000	19c per \$1 over \$18,200
45,001—120,000	\$5,092 + 32.5c per \$1 over \$45,000
120,001—180,000	\$29,467 + 37c per \$1 over \$120,000
180,001 +	\$51,667 + 45c per \$1 over \$180,000

C.2. NON-RESIDENT TAX RATES 2023-2024

Taxable Income (\$)	Tax Rate (%)
0—120,000	32.5c per \$1
120,001—180,000	\$39,000 + 37c per \$1 over \$120,000
180,001 +	\$61,200 + 45c per \$1 over \$180,000

D. TAX RATES 2022-2023

D.1. RESIDENT TAX RATES 2022-2023

Taxable Income (\$)	Tax Rate (%)
0—18,200	0
18,201—45,000	19c per \$1 over \$18,200
45,001—120,000	\$5,092 + 32.5c per \$1 over \$45,000
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D.2. NON-RESIDENT TAX RATES 2022-2023

Taxable Income (\$)	Tax Rate (%)
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120,001—180,000	\$39,000 + 37c per \$1 over \$120,000
180,001 +	\$61,200 + 45c per \$1 over \$180,000

E. TAX RATES 2021-2022

E.1. RESIDENT TAX RATES 2021-2022

Taxable Income (\$)	Tax Rate (%)
0—18,200	0
18,201—45,000	19c per \$1 over \$18,200
45,001—120,000	\$5,092 + 32.5c per \$1 over \$45,000
120,001—180,000	\$29,467 + 37c per \$1 over \$120,000
180,001 +	\$51,667 + 45c per \$1 over \$180,000

E.2. NON-RESIDENT TAX RATES 2021-2022

Taxable Income (\$)	Tax Rate (%)
0—120,000	32.5c per \$1
120,001—180,000	\$39,000 + 37c per \$1 over \$120,000
180,001 +	\$61,200 + 45c per \$1 over \$180,000

F. TAX RATES 2020-2021

F.1. RESIDENT TAX RATES 2020-2021

Taxable Income (\$)	Tax Rate (%)
0—18,200	0
18,201—45,000	19c per \$1 over \$18,200
45,001—120,000	\$5,092 + 32.5c per \$1 over \$45,000
120,001—180,000	\$29,467 + 37c per \$1 over \$120,000
180,001 +	\$51,667 + 45c per \$1 over \$180,000

F.2. NON-RESIDENT TAX RATES 2020-2021

Taxable Income (\$)	Tax Rate (%)
0—120,000	32.5c per \$1
120,001—180,000	\$39,000 + 37c per \$1 over \$120,000
180,001 +	\$61,200 + 45c per \$1 over \$180,000

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