LEAVING AUSTRALIA

AN EMPLOYEE'S TAX GUIDE

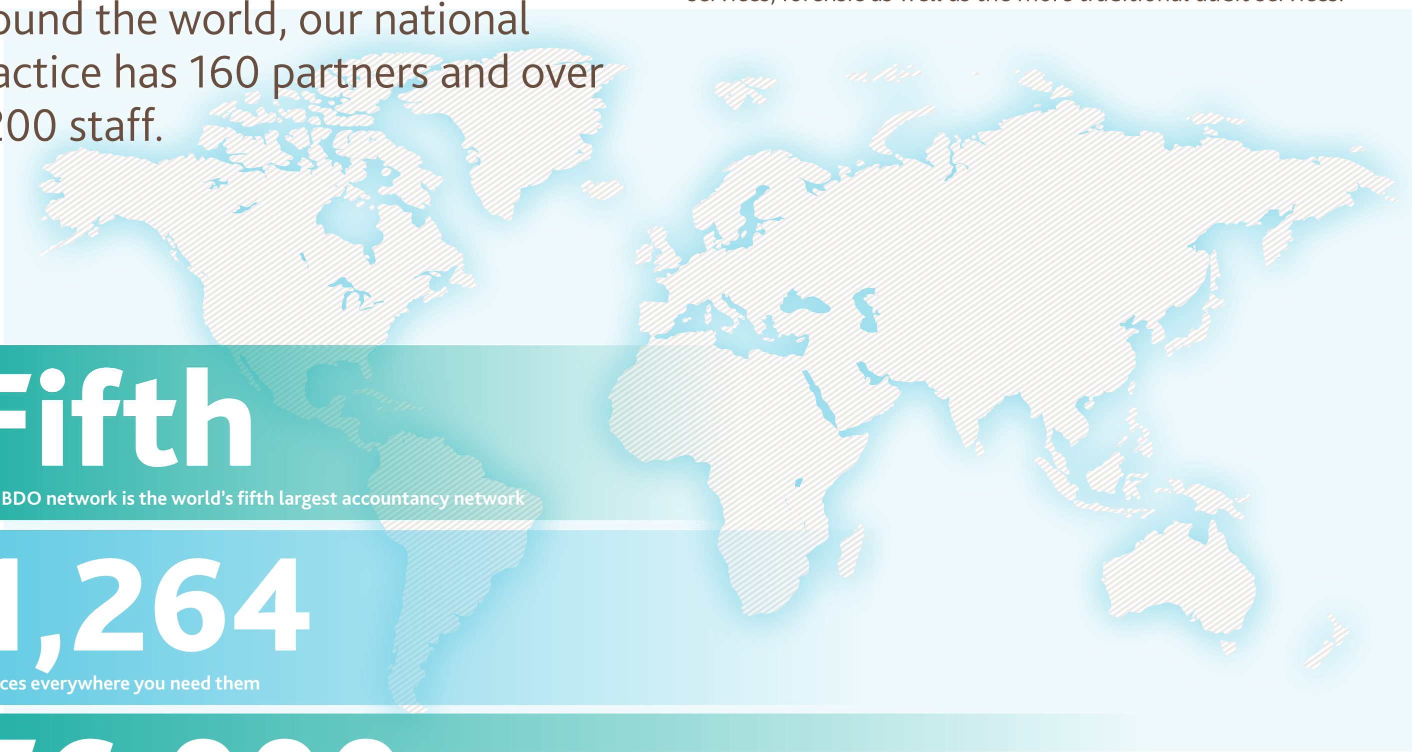
July 2014

INTRODUCTION TO BDO

BDO is the fifth largest full service professional services firm in Australia and globally with offices in Adelaide, Brisbane, Cairns, Darwin, Hobart, Melbourne, Sydney and Perth, as well as 1,264 offices around the world, our national practice has 160 partners and over 1,200 staff.

BDO has deep expertise in multiple specialist services, specifically audit, tax and advisory. The depth of our team provides reliability, technical expertise and global reach to match any other service provider. Our foundation of building close relationships with our clients allows us to be highly responsive and nimble to adapt to their ever changing needs.

We have a unique blend of services, including corporate and international tax, corporate finance and valuations, business consulting, internal audit, risk advisory, specialist IT assurance services, forensic as well as the more traditional audit services.



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1. INTRODUCTION

This guide is intended for individuals leaving Australia for employment purposes. It aims to provide an overview of the main Australian tax considerations and issues that affect Australian employees working overseas and is current as at the date on the front cover.

BDO Australia's Tax – Employment and Expatriate practice offers a full range of services to employees leaving Australia – whether on a temporary or permanent basis. We would be pleased to discuss any aspect of this guide and provide you with further information.

This guide is general in nature and you should not act upon information contained in it without seeking professional advice based upon your personal circumstances.

Details of our specialist contacts throughout Australia are listed at the end of this guide and details of our offices in your host country can be found at www.bdo.com.au.

2. RESIDENCE

The main factor which impacts your Australian tax liability while you are working overseas is your Australian tax residence status.

Australian tax residence is assessed on a case by case basis, using criteria put forward in Australian legislation, Taxation Rulings and case law.

While living overseas you will either:

- Remain an Australian resident and be taxable on your worldwide income (subject to the possible Foreign Earnings Exemption); or
- Remain an Australian resident under Australia domestic law but be considered a foreign resident of Australia for the purposes of applying a Double Taxation Agreement ('DTA'). Generally, 'DTA foreign residents' of Australia are exempt from Australian tax on salary relating to their overseas employment; or
- Become a foreign resident under Australian domestic law and only be taxable in Australia on income and certain gains from Australian sources.

The resides test

A person who 'resides' in Australia (ie: lives in Australia in a settled like manner) is considered a tax resident of Australia. As a general rule, an individual is considered to reside somewhere when they have an intention to live in that location for six months or more.

Relevant factors to consider include:

- family and business/employment ties
- maintenance and location of assets
- social and living arrangements.

The domicile test

Broadly, a person whose "domicile" is in Australia is a tax resident unless the Australian Taxation Office (ATO) is satisfied that their "permanent place of abode" is outside Australia:

- "Domicile" is a legal concept which refers to a person's permanent home. A person usually acquires a domicile at birth but can change their domicile by intending to make a home indefinitely in another country and taking steps to do so.
- In this context, "permanent place of abode" does not mean that the person has to intend to live there indefinitely. If a person is living somewhere in more than a temporary manner, this place can be a "permanent place of abode".

The following factors should be taken into account when determining whether or not you are an Australian resident for this test:

- Your intended and actual length of time overseas. The ATO considers a period of two years or more to be a substantial period for the purpose of determining tax residence
- Your intention to return to Australia
- Whether you establish a home overseas
- Whether your family has accompanied you overseas
- Whether you rent out your home in Australia or cancel a lease
- The duration and continuity of your presence overseas
- Your continuing ties to Australia (personal and economic)

The 183 day test
A person who is in Australia, continuously or intermittently, for more than 183 days in an income year is also considered to be a tax resident, unless the ATO is satisfied that their usual place of abode is outside of Australia and they do not intend to take up residence in Australia

The superannuation test
A person who is a member or an eligible employee of specific Commonwealth superannuation schemes or the spouse or child of such a person.

Ceasing Australian Residence

Generally, you are likely to cease to be an Australian tax resident if you:

- Intend to live abroad in a settled manner for a minimum period of 2 years
- Your family (spouse and children) have accompanied you
- You have rented, sold or otherwise abandoned your Australian home

The following actions may also support an argument that you will become a non resident of Australia while you are overseas:

- Shutting any unused Australian bank accounts and advising your bank that you will not be an Australian tax resident for a certain period and that tax should be withheld from any interest payments until advised otherwise
- Writing to the share registrars for any shares that you own to advise that you will not be an Australian tax resident for a certain period and that tax should be withheld from any dividend payments until advised otherwise
- If you have a rental property or are renting your home, ensure that this is properly managed. It may be prudent to engage a real estate agent for this purpose
- Writing to the Electoral Commission and advise them that you require an overseas vote
- Resigning from or suspending any social/sporting clubs and associations

Once you have determined your Australian tax residence status, you may consider what types of income remain taxable in Australia and what tax rates apply.

3. TAX COMPLIANCE

Australian Residents

You are required to continue to lodge tax returns annually if your assessable income exceeds the tax-free threshold.

Australian Non Residents

You are required to lodge a tax return to declare any Australian sourced income or gains and certain statutory income items that are taxed on a basis other than source (eg: capital gains made from certain CGT assets held on departure).

If you do not expect to have a requirement to file Australian tax returns following the tax year of your departure, you may advise the ATO when you file your last tax return.

In addition, if you are leaving Australia permanently and will not derive any subsequent income from Australian sources, you can lodge your income tax return early by completing a “Request for Early Assessment” in order to release any refund due to you.

4. LIABILITY TO AUSTRALIAN TAX

Australian Residents

You will remain taxable on your worldwide income and gains.

Employment Income

Your employment income is considered foreign sourced where it relates to services you perform overseas. This is regardless of whether it is paid from Australia or not.

If you have an Australian employer, they are required to report your foreign sourced employment income on a PAYG Payment Summary – Foreign Employment and continue to withholding PAYG taxes from your foreign sourced employment income.

Foreign Income Tax Offsets

If your foreign sourced income or gains are also taxed by another country, you may be subject to double taxation. To alleviate this, you may be entitled to claim an offset (credit) for the foreign tax paid on such income.

Foreign Earnings Exemption – from 1 July 2009

From 1 July 2009, a foreign earnings exemption to persons engaged in the following employment activities:

- The delivery of Australian official development assistance
- The activities of their employer in operating a developing country relief fund or public disaster relief fund
- The activities of their employer if their employer is a charitable or religious institution that is undertaking charitable activities and is exempt from income tax
- Deployed overseas as a member of a disciplined force.

Interest Income

As an Australian resident, you are subject to Australian income tax on interest income from worldwide sources. You may be able to claim a Foreign Income Tax Offset for foreign taxes paid on foreign sourced interest income.

Dividend Income

As an Australian resident, you are subject to Australian income tax on dividend income from worldwide sources. You may be able to claim a Foreign Income Tax Offset for foreign taxes paid on foreign sourced dividends.

Capital Gains

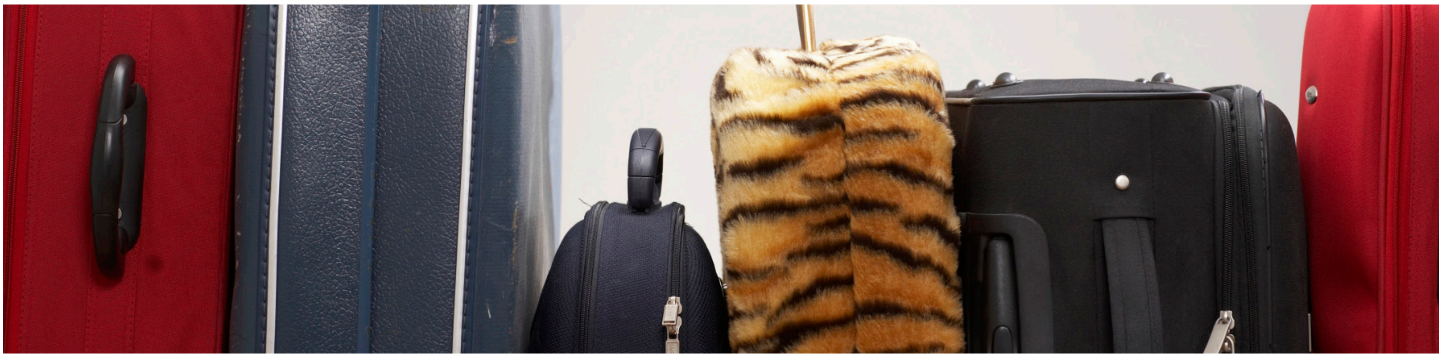
As an Australian tax resident you will remain subject to CGT on capital gains tax assets held anywhere in the world, subject to certain exemptions and the operation of DTAs.

Your net capital gains are included in your assessable income and taxed together with your other assessable income at your marginal income tax rate.

CGT applies to assets acquired after 19 September 1985 but not to winnings from betting, lottery, other forms of gambling or games with prizes. There are also exemptions for a gain made by selling your family home (main residence) and on sale of most motor vehicles.

If the asset disposed of was held for at least 12 months, a reduction in the taxable gain is determined by one of two methods:

- If the asset was purchased after 21 September 1999, the gain is reduced or "discounted" by 50%
- If the asset was purchased before 21 September 1999, you have a choice to use either the 50% discount method, or claim "indexation" which increases the cost base of the asset for inflation for periods of ownership up to 30 September 1999.



Where a capital losses that arise, on the disposal of assets, these may be used to reduce taxable capital gains made on other assets or carried forward indefinitely to offset future capital gains. Capital losses cannot be used to reduce other assessable income. Losses on personal use items are not allowed, except for certain specified exceptions.

DTA Foreign Residents

If you remain a resident of Australia and become a resident of your host country, you may be able to consider whether you are a foreign resident of Australia under the provisions of a DTA that Australia has with your host country. Generally where this is the case, your foreign sourced employment income will be exempt from Australian income tax. Please refer to section 7 for further information.

Foreign Residents

If you become a foreign resident of Australia for tax purposes, you will only be taxable on Australian sourced income and certain gains.

Employment Income

Income you receive in respect of employment services you perform overseas while you are a foreign resident will generally be exempt from Australian income tax.

Interest Income

Interest income is generally sourced in the country where a requirement to pay the interest arises.

If you are a foreign resident, Australian sourced interest should have tax withheld from your financial institution before payment to you. Generally, the withholding tax rate is 10%. However, this may vary depending on whether Australia has entered into a Double Taxation Agreement (DTA) with your host country and the rate within the relevant DTA. Withholding tax is a final tax.

You should notify your financial institution of your foreign residency status so they withhold tax from your interest income. Where your financial institution does not withhold tax on your interest income, you will be required to pay the withholding tax at the time your tax return is completed.

Dividend Income

Dividends are generally sourced in the country where the profits of the paying company are sourced. This can be very difficult to determine and it is acceptable to source the dividends in the country where the paying company is listed.

If you are a foreign resident:

- You have no further tax to pay on Australian franked dividends
- Any Australian unfranked dividends should have a 30% tax withheld before payment to you. This is a final tax, so you will not need to declare this dividend in your Australian tax return if you need to lodge an Australian tax return for any other reason (unless tax has not been withheld from the dividend).
- The withholding tax rate may be reduced if you are resident in a country with which Australia has a DTA that allows for this.

Rental Income

Please refer to the section in relation to rental income if you own an Australian rental property as this applies to you if you are a resident or foreign resident of Australia.

Capital Gains Tax

When you cease Australian tax residency, you are deemed to have disposed of most of your assets at their market value at the date you become a foreign resident (ie the day after your departure date). This does not include certain “Taxable Australian Property” which includes real property, amongst other items. This means that effectively, you are subject to CGT based on the increase in value of these assets at the date you leave, even though you have not actually disposed of these assets.

You may choose to opt out of the deemed disposal rules described above, by electing to treat all of your assets as "Taxable Australian Property.". In doing so, the assets will be subject to CGT on actual disposal, regardless of your residency status at that time.

The 50% CGT discount does not apply for foreign residents who dispose of "Taxable Australian Property" or assets they have elected to treat as "Taxable Australian Property" on or after 8 May 2012.

There are special rules for assets that were held prior to 8 May 2012, which are designed to allow foreign residents to ensure that only the gain accruing after 8 May 2012 is denied the discount.

As a general rule, any capital gain or loss from the disposal of a main residence is exempt from Australian income tax. The main residence exemption can apply for an indefinite period, if the property is not used for income producing purposes, as long as no other property is treated as your main residence for the same period.

Where you use a prior main residence for income producing purposes, you can maintain the exemption for a period of up to six years. A partial exemption may apply where you sell your property more than six years after you first rent it out. If you move back into a prior main residence, you can re-establish the property as your main residence. If you later vacate the property again, the six year exemption may apply again.

Employee Share Schemes

The following section applies to Australian tax residents and foreign residents.

The taxation of Employee Share Schemes (ESS) is complex and your exposure to Australian income tax and possibly CGT will depend on several factors once you have acquired an "interest" in an ESS. This may be an interest in shares directly, rights to acquire shares or options over shares.

The factors to consider are:

- Your residence status when you first acquire the interest
- Whether the ESS interest qualifies for a reduction in the taxable amount
- Whether your ESS interest is at "real risk of forfeiture" and, if so, your residence status when that real risk of forfeiture ceases
- The taxable value of the ESS interests

Taxable Value

Broadly, the taxable value of the ESS interest is the difference between its market value at the taxing point and the price you pay for it.

Taxing Point

The taxing point occurs when the ESS interest is first acquired. However, if the ESS interest is subject to "real risk of forfeiture" or disposal restriction amongst other factors, the taxing point may be deferred to when that real risk of forfeiture or disposal restriction ceases.

If you are an Australian tax resident at the taxing point of the ESS interest you are subject to tax on the taxable value of the ESS interest. However, if a portion of the taxable value of the ESS interest relates to a period of employment outside of Australia, you may be able to claim a foreign income tax offset in respect of any related tax that has been paid in the foreign country.

If you are a foreign tax resident at the taxing point of the ESS interest, you are subject to tax only on the portion of the taxable value of the ESS interest that relates to a period of employment in Australia.

5. TAXES AND LEVIES

Income Tax Rates

2015 resident tax rates:

The following rates apply from 1 July 2014.

TAXABLE INCOME	TAX RATE	TAX ON INCOME BELOW THIS BRACKET
0 – $18,200*	Nil	$0
$18,201 – $37,000	19%	$0
$37,001 – $80,000	32.5%	$3,572
$80,001 – $180,000	37%	$17,547
$180,001 and over**	47%	$54,547

*The tax free threshold level is prorated for part year residents.

**Includes the 'Temporary Budget Repair' levy of 2%

The rates above to not include the Medicare levy (see the following paragraph for more information).

2015 foreign resident rates:

The following rates apply from 1 July 2014.

TAXABLE INCOME	TAX PAYABLE	TAX ON INCOME BELOW THIS BRACKET
0 – $80,000	32.5%	$0
$80,001 – $180,000	37%	$26,000
$180,001 and over*	47%	$63,000

*Includes the 'Temporary Budget Repair' levy of 2%

Foreign residents are not required to pay the Medicare levy.

Temporary Budget Repair Levy

As part of the 2014 Federal Budget, the Government announced that it will impose a temporary Budget Repair levy of 2% on the portion of a person's taxable income which exceeds $180,000.

The levy will apply from 1 July 2014 and apply to the 2014-15, 2015-16 and 2016-17 financial years.

Medicare Levy

Medicare is a government scheme that gives Australian residents access to public health care. In addition to income tax, if you are a resident, you need to pay the Medicare levy at a rate of 2% on taxable income, subject to exemptions for low-income earners and some temporary visa holders.

A further Medicare levy surcharge may be charged if your adjusted taxable income (which includes taxable income, reportable fringe benefits and other specific items) exceeds $90,000 (singles) or $180,000 (couples) and you do not hold qualifying private medical insurance. The income threshold increases by $1,500 for each dependent child after the first. From the year ending 30 June 2014 onwards, the Medicare levy surcharge will be income tested against the following income tier thresholds:

	TIER 1	TIER 2	TIER 3
	TIER 1	TIER 2	TIER 3
Singles	$90,001 - $105,000	$105,001 - $140,000	$140,001 or more
Couples	$180,001 - $210,000	$210,001 - $280,000	$280,001 or more
Rates	1.0%	1.25%	1.5%

Income for surcharge purposes includes a taxpayer's taxable income, net investment losses, reportable superannuation contributions and reportable fringe benefits. The surcharge applies to a taxpayer's taxable income and reportable fringe benefits amounts.

Reciprocal Healthcare Agreements

While overseas, you will generally not be entitled to receive public health services from the country you are living in. However, Australia has signed several Reciprocal Healthcare Agreements with selected overseas countries, which entitle Australians to receive similar benefits and treatment in the overseas country as would be received in Australia.

These agreements typically do not cover items such as private hospital treatment and accommodation, glasses, contact lenses, most dental work and chiropractic treatment.

Australia currently has a reciprocal health agreement with the following countries:

- Belgium
- Finland
- Italy
- Malta
- New Zealand
- Norway
- Republic of Ireland
- The Netherlands
- Slovenia
- Sweden
- United Kingdom

Australian residents

Australian tax residents are liable to pay a Medicare levy of 2%, even if they are working overseas. If they do not hold adequate Private Health Insurance for themselves and their dependents with an Australian registered health care fund, they may also be subject to the Medicare levy surcharge as noted above.

Where you remain a tax resident, it is important that you ensure your private health insurance is adequate to exempt you from the Medicare levy surcharge. Alternatively, you may choose to suspend your private health cover, where you believe your adjusted taxable income will not exceed the relevant thresholds for the Medicare levy surcharge to apply. Suspending instead of cancelling your cover will allow you to avoid being subject to additional premiums upon repatriation. If you wish to retain your private health insurance you may consider retaining hospital cover only.

Foreign residents

As a foreign resident, you are not subject to the Medicare levy. In the year of your departure and repatriation, you will be subject to the Medicare levy for the days you are a resident. You may therefore also be subject to the Medicare levy surcharge if your income is above the relevant threshold and you do not hold Australian private health insurance for your residency period.

Superannuation

As a general rule, employer contributions to a qualifying superannuation fund under the Superannuation Guarantee Charge (SGC) scheme will still be due if you remain an Australian resident and are employed by an Australian employer. Superannuation contributions are required at to be made into an approved Australian superannuation fund at the rate of 9.5% (rising by small increments each year until it reaches 12% on 1 July 2019) up to the 'Maximum Contributions Base' (currently $49,430 per quarter for the year ending 30 June 2015).

Superannuation contributions will no longer be compulsory if you become a foreign resident and perform employment services outside Australia. However, an Australian employer may voluntarily decide to continue with contributions if the fund permits it.

Concessional Superannuation Contributions

Concessional contributions include employer contributions (including contributions made under a salary sacrifice arrangement) and personal contributions claimed as a tax deduction by a self-employed person.

Concessional superannuation contributions into a superannuation fund are usually taxed at a rate of 15% within the fund. Contributions up to $30,000 ($35,000 if aged 49 or over on 30 June 2014) per annum can be contributed into Australian superannuation tax effectively and counts towards an individual's concessional contributions cap as long as the sum of their total income and concessional contributions is less than $300,000 (see Division 293 tax below).

Concessional superannuation contributions over the $30,000 (or $35,000) cap are included in the individual's assessable income and taxed at their marginal tax rate up to a maximum of 49%.

Non Concessional Superannuation Contributions

Non-concessional contributions include personal contributions for which you do not claim an income tax deduction (i.e. post tax contributions). Non concessional superannuation contributions are not taxed upon contribution up to a cap of $180,000 per annum (or $540,000 per annum where the cap is brought forward for two years). Contributions above this cap are taxed at an individual's marginal tax rate up to a maximum of 47%.

Division 293 Tax

An individual is generally liable to pay 'Division 293 tax' if the sum of their income and concessional superannuation contributions is greater than $300,000. Division 293 tax will be charged at 15% of an individual's taxable concessional contributions above $300,000.

Totalisation Agreements

Australia has entered into agreements with a number of countries which address the problem of international assignees being required to make social security contributions in both their home and host countries at the same time. Superannuation is treated as social security for this purpose.

If this does arise and an agreement is in place, your employer may obtain a certificate from the ATO which will exempt you and your employer from making social security contributions in your host country.

Australia currently has international totalisation agreements with the following countries:

- Austria
- Belgium
- Croatia
- Chile
- Czech Republic
- Finland
- Germany
- Greece
- Hungary
- Japan
- Latvia
- Republic of Ireland
- Republic of Korea
- The former Yugoslav Republic of Macedonia
- Norway
- Poland
- Portugal
- Switzerland
- The Netherlands
- The Slovak Republic
- United States

Self Managed Superannuation Funds

In order for a Self Managed Superannuation Fund ("SMSF") to remain a complying superannuation fund, it needs to meet the following three tests at all times:

1. Be established in Australia
2. Have central management and control exercised 'ordinarily' in Australia
3. The 'active member' test must be satisfied

If the fund stops being a complying fund because it does not satisfy the tests noted above an amount equal to the market value of the fund's total assets (less any contributions the fund has received that are not part of the taxable income of the fund) may be included in the fund's assessable income. This amount is taxed at the highest marginal tax rate.

For every year that the fund remains non-complying, its assessable income is taxed at the highest marginal tax rate.

Where you have a SMSF, it is strongly recommended you seek further professional advice to ensure the fund is considered a complying superannuation fund.

Fringe Benefits Tax

If you remain an Australian resident, your employer may continue to be liable to FBT on fringe benefits provided to you and your associates unless your foreign sourced employment income is exempt from Australian income tax.

Employers of foreign residents or DTA foreign residents are not liable to FBT on benefits provided to them while they are working abroad.

Living Away From Home Benefits for Australian Residents

FBT concessions exist in relation to benefits provided to employees who are required to live away from their usual place of residence for work purposes.

In order to qualify as living away from home (LAFH), you generally need to have an intention to return to your usual place of residence at the end of your assignment.

If you are LAFH for work purposes, your employer may provide you with tax free housing and a tax free food allowance or reimbursement of actual costs. Please note these expenses cannot be claimed as a deduction in your tax return.

Qualifying Criteria

In order to qualify for tax free food and accommodation allowances or benefits, you need to meet the following three criteria:

- The duties of your employment require you to live away from a home in Australia where you usually reside and it is reasonable to conclude that you intend to return to that property
- You have an ownership interest (this includes a lease) in the place you are living away from
- The home you are living away from must continue to be available for your use throughout the LAFH period. It cannot be let or sublet to a third party.

If you qualify, the LAFH tax concessions will be available for the first 12 months that you are required to live away from home to perform the duties in a particular location.

Accommodation

This can be provided by direct payment to the landlord or agent or reimbursement to you of your actual accommodation costs. However, there are strict requirements to substantiate actual costs incurred.

Food

This is a cash allowance paid by your employer directly to you to cover additional food costs above a statutory amount whilst you are LAFH. The ATO publishes maximum amounts that it considers reasonable for this allowance on an annual basis.

If the allowance is equal to or below the amount that the ATO considers reasonable, substantiation of your expenses will not be required. However, if your allowance is greater than the amount the ATO considers reasonable, you will have to substantiate the expenses in full.

Children's Education Costs

If you are LAFH from a home that is in a different country to where you are working, your employer can pay the costs of your children's education tax free if your child is under 25 years of age and subject to this being "industry custom". The exemption applies to full-time education only, whether in Australia or abroad. This covers the costs of fees, books, uniforms, excursions and other education costs.

Home Leave

If you are LAFH from a home that is in a different country to where you are working, a 50% reduction may apply to the taxable value of travel expenses paid by your employer for one holiday trip back to your home country, or to another country, per year for yourself and your family.

6. TAX PLANNING FOR EMPLOYEES

Australian Residents

Opportunities to reduce your Australian tax liabilities arise by:

- Considering the social security exemption rules of countries with totalisation agreements with Australia
- Considering whether your Australian private health insurance should be suspended or reduced to hospital cover only
- Considering your eligibility under the LAFH rules.

Foreign Residents

Opportunities to reduce your tax liabilities arise by:

- Considering the social security exemption rules of countries with totalisation agreements with Australia
- Ensure that remuneration in respect of foreign and non-taxable duties is delivered to you before you arrive back in Australia
- Non-Australian sourced investment income will not be taxable in Australia while you are not a tax resident of Australia. It may be beneficial to crystallise all overseas investments prior to coming back to Australia and resuming Australian tax residence
- Generally, your private medical insurance should be suspended and not cancelled, in order to ensure that you do not have additional loading included in your premium once you return to Australia
- Consider your liability to the Medicare levy surcharge on your adjusted taxable income if you suspend or cancel your private medical insurance.

Please contact your BDO tax advisor for further guidance.

7. DOUBLE TAXATION AGREEMENTS

Australia has entered into a Double Tax Agreement (DTA) with a number of countries, for the purposes of:

- Determining which country an individual is a tax resident of when both countries claim that the individual is a resident of their country
- Minimising double taxation by exempting certain income types from tax in one country, or allowing a country to credit tax paid in the other country against its own tax liability
- Determining which country has the right to tax certain income types or gains
- Restricting withholding tax applicable in one country when certain types of income are paid to residents of the other country.

DTAs generally prevail over domestic law in both countries in respect of income considered within the DTA.

Tax Information Exchange Agreements

Australia has entered into a number of Tax Information Exchange Agreements (TIEAs) with various countries that allow for Australia and the other country to exchange information that may be relevant to the administration and enforcement of tax laws.

Australia currently has DTAs with the following countries:

- Argentina
- Austria
- Belgium
- Canada
- Chile
- China
- Czech Republic
- Denmark
- Fiji
- Finland
- France
- Germany
- Hungary
- India
- Indonesia
- Ireland
- Italy
- Japan
- Kiribati
- Malaysia
- Malta
- Mexico
- New Zealand
- Norway
- Papua New Guinea
- Philippines
- Poland
- Romania
- Republic of Korea
- Russia
- Singapore
- Slovakia
- South Africa
- Spain
- Sri Lanka
- Sweden
- Switzerland
- The Netherlands
- Taipei
- Thailand
- United Kingdom
- United States
- Vietnam

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