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/ Residency - the superannuation test

## Residency - the superannuation test

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The superannuation test is the third statutory test. This test covers current Australian government employees and states that you are an Australian resident if you are:

- a member of the superannuation scheme established under the *Superannuation Act 1990*, or
- an 'eligible employee' for the purposes of the *Superannuation Act 1976*.

If you are an Australian resident under this test, your spouse and any children under the age of 16 would also be regarded as Australian residents for income tax purposes.

'Spouse' includes another person (of any sex) who:

- you were in a relationship with that was registered under a prescribed state or territory law
- although not legally married to you, lived with you on a genuine domestic basis in a relationship as a couple.

Both the *Superannuation Act 1990* and the *Superannuation Act 1976* include permanent and some categories of temporary employees in their definition of member or eligible employee. These definitions do not include a person who is engaged or appointed for employment outside Australia only. Thus, if you are no longer employed by the Public Service in those capacities you will fail this test.

The test is designed to ensure that Australian government employees working at Australian posts abroad (such as diplomats and officials of the Department of Foreign Affairs and Trade) are treated as Australian residents and, as a consequence, so too are their spouses and children under 16 years of age.

### **Example of a resident**

Delphi, an officer of the Department of Foreign Affairs and Trade, is posted to Thailand for a period of three years and is a member of the Commonwealth Superannuation Scheme (CSS). Delphi will remain an Australian resident under this test.

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### **Example of a foreign resident**

Peter, a retired public servant in receipt of a superannuation pension from the Public Sector Superannuation Scheme (PSS) – a Commonwealth superannuation fund – moves to South Africa for a period of three years to look after an ailing relative. Peter does not satisfy the superannuation test as he is no longer a contributing member.

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### **Example of a resident**

John is not an eligible employee in the CSS or PSS schemes. He has been living in Tokyo for ten years. His spouse is a Commonwealth employee and is an eligible employee of the CSS scheme. John is an Australian resident under this test.

## What to read/do next

For more general information about residency, read [Work out your residency status for tax purposes \(/Individuals/International-tax-for-individuals/Work-out-your-tax-residency/\)](#).

For information on the other three residency tests, read:

- [Residency - the resides test \(/Individuals/International-tax-for-individuals/In-detail/Residency/Residency---the-resides-test/\)](/Individuals/International-tax-for-individuals/In-detail/Residency/Residency---the-resides-test/)
- [Residency - the domicile test \(/Individuals/International-tax-for-individuals/In-detail/Residency/Residency---the-domicile-test/\)](/Individuals/International-tax-for-individuals/In-detail/Residency/Residency---the-domicile-test/)
- [Residency - the 183 day test \(/Individuals/International-tax-for-individuals/In-detail/Residency/Residency---the-183-day-test/\)](/Individuals/International-tax-for-individuals/In-detail/Residency/Residency---the-183-day-test/)
- [Some examples of Australian residents and foreign residents \(/Individuals/International-tax-for-individuals/In-detail/Residency/Examples-of-residents-and-foreign-residents/\).](/Individuals/International-tax-for-individuals/In-detail/Residency/Examples-of-residents-and-foreign-residents/)

Other information about residency:

- [Lodging tax returns for foreign residents \(/Business/International-tax-for-business/Foreign-residents-doing-business-in-Australia/Tax-on-income-and-capital-gains/?anchor=lodginganaustraliantaxreturn#lodginganaustraliantaxreturn\)](/Business/International-tax-for-business/Foreign-residents-doing-business-in-Australia/Tax-on-income-and-capital-gains/?anchor=lodginganaustraliantaxreturn#lodginganaustraliantaxreturn)
- [Exempt foreign employment income \(/Individuals/International-tax-for-individuals/In-detail/Foreign-income-of-Australian-residents/Exempt-foreign-employment-income/\)](/Individuals/International-tax-for-individuals/In-detail/Foreign-income-of-Australian-residents/Exempt-foreign-employment-income/)

If you need help applying this information to your own situation, phone us on **13 28 61**.

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Some of the information on this website applies to a specific financial year. This is clearly marked. Make sure you have the information for the right year before making decisions based on that information.

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