

Split family residence



Q *My family live in Australia while I work overseas, does this mean that I will be taxed in Australia?*

A In the 2009 Australian Federal Budget, the Rudd Government announced that it would change the rules to tax Australians working abroad if they are residents for tax purposes.

If you are genuinely living overseas then these changes will not apply to you and no tax will be payable in Australian on your offshore income, but it is important to establish that you do in fact qualify as non resident.

In the modern world, it is not uncommon for families to be apart with one spouse working overseas and the other in Australia for the kids schooling or personal career issues. This can cause some confusion when it comes to establishing your tax position.

The Australian tax system is not based on the family, it is an individual tax environment so the mere fact that you and you spouse choose to live apart will in itself not affect your tax status, however it will mean a closer scrutiny to ensure that you are in fact actually “living” overseas rather than just “working” abroad.

The ramifications can be significant, with the difference of being taxed in Australia or not. The key here is to establish that you are actually a non resident yourself and some of the critical areas considered are summarised in the table to the right >>

If you have any doubt about where you “live”, then it is essential that you seek professional assistance as soon as possible to clarify your situation. Australia will allow a full tax credit for any tax paid abroad, and there are other tax planning techniques that can help you as well, so don't be afraid to confirm your circumstance.

Situation	Non Resident Outcome
Reason for Split Household	You are entitled to live apart, but a logical reason for the sacrifice is always a good support. Quality of your children's school or enhancement of the spouses career or personal education are normal
Career Location & Permanence	You should have a valid employment agreement in the offshore country and a base at an appropriate location out of Australia. Your intended period of tenure should be long term, preferably more than 2 years, although it does not need to be stipulated.
Entitlement to Stay	You would logically need to have a valid Visa in the country you live in to entitle you to stay and work. A short term social or visit Visa would not be appropriate.
A Genuine Home	You should maintain a constant residence, including the option of shared accommodation, that you use as a real residence in your day to day life in the country you live in.
History of Travel	You are able to travel freely to Australia as often as you see fit to “visit” your family, but it should be temporary in nature. If trips become more regular and longer it could be construed that you are basing yourself in Australia and visiting overseas for work and hence have become a Australian tax resident.
Longevity	It should be your clear intention to live and work abroad for the indefinite future and your actions and situation should support this. If it is a short term work assignment then you are likely to be taxed in Australia. Perhaps you will have plans for your spouse to join you later when circumstances permit.

Steve Douglas is the co-founder and Managing Director of Australasian Taxation Services (ATS), established in Singapore in 1995. ATS provides specialist taxation services to people of any nationality investing in Australian property, as well as Australian expatriates living overseas. Areas of specialisation include the Australian taxation aspects of property investment, as well as expatriate and migration planning.

