



## Australia

### Introduction

Residents are taxed on worldwide income whereas nonresidents and temporary residents are generally taxed on Australian-sourced income only.

A person's liability to Australian tax is determined by residence status for taxation purposes and the source of income derived by that individual. Income tax is levied at progressive rates on an individual's taxable income for the year, which is calculated by subtracting allowable deductions from the total assessable income.

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### Key messages

Extended business travelers are likely to be taxed on employment income relating to their Australian workdays.

## Income tax

### Liability for income tax

A person's liability to Australian tax is determined by residence status. A person can be a resident, nonresident, or temporary resident for Australian tax purposes.

A resident of Australia generally refers to an individual who enters Australia with the intention of remaining for more than six months (or who actually spends more than six months in Australia during an income year). A temporary resident is a resident of Australia who is in Australia on a specific temporary visa and meets other prescribed conditions. A nonresident of Australia is generally someone who spends less than six months in Australia. The general rule is that a person who is a resident of Australia is assessable on worldwide income.

Nonresidents are assessed on income derived directly or indirectly from sources in Australia (subject to the interaction of a double tax agreement). Temporary residents are assessed on employment income from all sources derived after arrival in Australia and all Australian-sourced investment income (subject to the interaction of a double tax agreement). Extended business travelers are likely to be considered nonresidents of Australia for tax purposes unless they enter Australia with the intention to remain in Australia for more than six months.

### Definition of source

Employment income is generally treated as Australian-sourced compensation where the individual performs the services while physically located in Australia.

### Tax trigger points

Technically, there is no threshold/minimum number of days that exempts the employee from the requirements to file and pay tax in Australia. To the extent that the individual qualifies for relief in terms of the dependent personal services article of the applicable double tax treaty, there will be no tax liability. The treaty exemption will not apply if the Australian entity is the individual's economic employer.

Fringe benefits tax is levied on the employer. The maximum tax rate is 45 percent.

### Types of taxable income

For extended business travelers, the types of income that are generally taxed are employment income and Australian-sourced income and gains from taxable Australian assets (such as real estate). Fringe benefits, which are broadly noncash employment income, are subject to fringe benefits tax, which is levied on the employer.

### Tax rates

Net taxable income is taxed at graduated rates ranging from 15 percent to 45 percent. Nonresidents are subject to tax at 29 percent on the first 37,000 Australian dollars (AUD) of income and graduated rates ranging from 30 percent to 45 percent for the remaining income. The maximum tax rate is currently 45 percent on income earned over AUD180,000 in the case of both residents and nonresidents.

In January 2011, the Australian government proposed the introduction of a one-year levy to help fund the rebuilding as a result of the recent floods. If introduced, an additional 0.5 percent will be payable on taxable income between AUD50,000 and AUD100,000, and 1 percent on taxable income in excess of AUD100,000. Those affected by the floods or those with taxable income of less than AUD50,000 will not be liable.

## Social security

### Liability for social security

Superannuation is a mechanism requiring individuals to save money for retirement. It prescribes that employers make a contribution of 9 percent of earnings (up to a maximum contribution of AUD3,799.80 per quarter) into an Australian superannuation account. An exemption from the superannuation requirement can apply for certain senior executives or where there is a totalization agreement between Australia and the home country.

Medicare Levy is payable only by residents and temporary residents from countries that have reciprocal health agreements with Australia. The Medicare Levy rate is 1.5 percent of taxable income. The Medicare Levy Surcharge may also be payable depending on the employees' level of income and whether the employee has appropriate private health insurance. If applied, the Medicare Levy Surcharge rate is 1 percent of the total of taxable income plus reportable fringe benefits.

Nonresidents are not liable for the Medicare Levy or Medicare Levy Surcharge.

Foreigners may be exempt from superannuation. The Medicare Levy and Medicare Levy Surcharge may be payable.

## Compliance obligations

### Employee compliance obligations

Tax returns are due by October 31 following the tax year-end, which is June 30. Where a tax agent is used, there is an automatic extension. Tax returns must be filed by nonresidents who derive any Australian-sourced income (other than Australian dividend income, interest income, or royalties, which are subject to final withholding tax).

For many types of income, including any income other than employment income paid to a nonresident, the payer must withhold tax at the source and remit taxes withheld to the tax authorities.

### Employer reporting and withholding requirements

Withholdings from employment income are covered under the Pay-As-You-Go (PAYG) system. If an individual is taxable with respect to employment income, the payer has a PAYG withholding requirement. Where the payer is a nonresident, this may be varied to zero by application to the Australian Tax Office (with the liability arising on lodgment of the return). In addition, employers may be liable to payroll tax at a state level where the annual payroll exceeds certain threshold levels and an exemption does not apply. Rates, thresholds, and exemptions vary between states.

## Other

### Work permit/visa requirements

The appropriate visa must be applied for before the individual enters Australia. The type of visa required will depend on the purpose of the individual's entry into Australia.

### Double taxation treaties

Australia has an extensive tax treaty network.

In addition to Australia's domestic arrangements that provide relief from international double taxation, Australia has entered into double taxation treaties with more than 40 countries to prevent double taxation and allow cooperation between Australia and overseas tax authorities in enforcing their respective tax laws.

### Permanent establishment implications

There is the potential that a permanent establishment could be created as a result of extended business travel, but this would be dependent on the type of services performed and the level of authority the employee has.

### Indirect taxes

Goods and services tax (GST) is applicable at 10 percent on taxable supplies. GST registration may be required in some circumstances.

### Transfer pricing

Australia has a transfer pricing regime. A transfer pricing implication could arise to the extent that the employee is being paid by an entity in one jurisdiction but performing

services for the benefit of the entity in another jurisdiction, in other words, when a cross-border benefit is being provided. This would also be dependent on the nature and complexity of the services performed.

### Local data privacy requirements

Australia has data privacy laws.

### Exchange control

Australia does not restrict the flow of Australian or foreign currency into or out of the country. However, certain reporting obligations are imposed to control tax evasion and money laundering. New legislation requires financial institutions and other cash dealers to give notification of cash transactions over AUD10,000, suspicious cash transactions, and certain international telegraphic or other electronic funds transfers (there is no minimum amount). All currency transfers (in Australian or foreign currency) made by any person into or out of Australia of AUD10,000 or more in value must be reported.

### Nondeductible costs for assignees

Nondeductible costs for assignees include contributions by an employer to non-Australian pension funds.

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