

Australian Tax Residency: Tests

The Legislation: ITAA 1936

An "Australian resident" means a person who is a resident of Australia for the purposes of the ITAA 1936. A "resident of Australia" is defined in s 6(1) of the ITAA 1936 to mean:

(a) a person, other than a company, who resides in Australia and includes a person:

(i) whose domicile is in Australia, unless the Commissioner is satisfied that the person's permanent place of abode is outside Australia;

(ii) who has actually been in Australia, continuously or intermittently, during more than one half of the year of income, unless the Commissioner is satisfied that the person's usual place of abode is outside Australia and that the person does not intend to take up residence in Australia; or

(iii) who is:

(A) a member of the superannuation scheme established by deed under the Superannuation Act 1990; or

(B) an eligible employee for the purposes of the Superannuation Act 1976; or

(C) the spouse, or a child under 16, of a person covered by sub-subparagraph (A) or (B);

