

Residency

Is Client a resident of Australia during the year ended 30 June 2013 for tax purposes?

Facts

Client has accepted a position for 3 years in Singapore as General Manager with an Australian based company. Client has obtained an employment pass for this purpose. The date of departure from Australia is September 2012 and the position commences in November 2012. Client is being accompanied by partner and child. The child is school age and will be attending school in Singapore. The family home in Australia has been sold and settled before the departure date. Furniture is being relocated to Singapore and some is being stored in Australia. The family will be setting up home in Singapore and entering into at least a 12 month lease of a property.

Reasonably Arguable Position

It is concluded that the Client will not be a resident of Australia from the date of departure. Client has left Australia on an indefinite basis. The residency tests prescribe that a person born in Australia is domiciled in Australia and therefore a resident of Australia unless their permanent place of abode is overseas. Permanent does not mean everlasting. Client is living permanently overseas as she is working in a contract position that is difficult to break, and intends to remain in the position for 3 years. It is not expected that either party will be invoking these provisions. Client has worked with company for nearly 18 years and has resigned to take up this position, which provides for career advancement. Ruling IT 2650 lists the intended and actual length of stay as an important factor to consider, as well as the continuity of the stay, and whether the individual intends to return to Australia at a definite point in time and whether a home has been established overseas. Client and family intend to live continuously overseas for 3 years. Client will be required to return to Australia for work purposes for possibly 3 times a year paid for by the company. The family may join Client for one of these visits per year subject to child's school.

Client's home will be overseas and the majority of Client belongings are overseas. Client does not have a home in Australia as Client sold the family home in Adelaide when Client decided to live overseas. Client is not returning to Australia at a definite point in time but it is likely to be at the end of the 3 year contract. However there is an option for the contract to be renewed if both parties agree at the end of the 3 year term.

Factors in favour of remaining an Australian resident

- Client has maintained Australian bank accounts
- Client life and income protection insurance cover will be maintained
- Term Deposit of \$50,000 maintained in Australia
- Client owns a trustee company in Australia and is the director
- Client maintaining her superannuation membership but no contributions

Conclusion

Taking all of these factors and some others into account it is concluded that on balance Client is not a resident of Australia for the 30 June 2013-2015 years.