

2 March 2023

Katie
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Dear Katie

Thank you for your email of 16 February 2023 asking what your tax obligation would be if you worked for an international organisation.

New Zealand tax residents are required to pay tax in New Zealand on their worldwide income in accordance with New Zealand tax laws. The taxation of New Zealand residents on their worldwide income is a long-standing and fundamental principle of the New Zealand tax system. Therefore, a person's tax residency status is important in determining the New Zealand tax liability. Generally, if a person is a non-resident for tax purposes, then they only have to pay tax on their New Zealand sourced income.

Tax residency is not the same as New Zealand residency approved by Immigration New Zealand. Tax residency is determined under subpart YD of the Income Tax Act 2007. There are two tests for determining the tax residency of an individual. The primary test looks at whether the individual has a permanent place of abode in New Zealand, and the secondary test looks at the number of days the person is present in New Zealand. Some people who physically work overseas can still be considered New Zealand resident for tax purposes.

A person must have a dwelling available in New Zealand to have a permanent place of abode. However, the existence of a dwelling in which the person could live will not, of itself, give rise to tax residence in New Zealand. A place of abode will be a person's permanent place of abode if it is a lasting or enduring place where they usually live, or a place in which they can live or dwell when required.

To determine whether a person has a durable association with their place of abode, their overall connections with their place of abode and with New Zealand must be considered. It is then necessary to evaluate the extent to which those connections indicate that the person has an enduring relationship with their place of abode here, such that it can be considered to be their permanent place of abode.

Consideration is also given to any double tax agreements that New Zealand has with the other country, such as the one we have with Australia. There are tiebreaker provisions that are used to decide which country can tax the person's worldwide income. Generally, these tiebreaker tests are:

- the country you have a permanent home in, or
- if you have permanent homes in both countries or neither, then the country that your family and economic interest are in, or
- if this is not clear, then the country you spend most of your time in, or
- if this is not clear, the country you are a citizen of.

You can find more information about tax residency on our website www.ird.govt.nz by searching for *Tax residency status for individuals*.

I have also attached the interpretation statement *IS 16/03 Tax Residence* for your information. This sets out Inland Revenue's view on tax residence rules for individuals, companies, and trusts.

Ref: 230IA1833

Questions 1-5

Question 1: Working for an Australian company remotely, while residing in Australia (I'm assuming NZ tax law doesn't apply there...!);

If you are not a New Zealand tax resident as mentioned above the Australian sourced income will not be taxable in New Zealand. The income will be taxable in Australia under the Australian domestic law.

Question 2: Working for an Australian company remotely, while residing in New Zealand

The Australian sourced income will be taxable in New Zealand if you are a New Zealand tax resident. However, as it is also sourced in Australia it may also be taxable in that country under its domestic law. Article 23 of the DTA between Australia and New Zealand allows a New Zealand tax resident to claim a credit for any tax paid in Australia when declaring the Australian income in their annual income tax return. The amount of the foreign tax credit must not exceed New Zealand tax calculated under section LJ 5 of the Income Tax Act 2007 (ITA).

Question 3: Working for an Australian company remotely, while being a resident of New Zealand but travelling abroad in multiple countries for extended periods of time as a tourist (e.g. anywhere from 3-12+ months at a time).

The answer is the same as question 2. I have assumed that the permanent place of abode test applies in this situation.

Question 4: Working for a New Zealand company remotely, while being a resident of New Zealand but travelling abroad in multiple countries for extended periods of time as a tourist (e.g. anywhere from 3-12+ months at a time).

As the income has a New Zealand source it will generally be taxable in New Zealand under our domestic tax law. The income will also be taxable in New Zealand if you are a New Zealand tax resident. I have again assumed that the permanent place of abode test applies in this situation.

Question 5: Working for any international (i.e. non-New Zealand based) company remotely, while being a resident of New Zealand but travelling abroad in multiple countries for extended periods of time as a tourist (e.g. anywhere from 3-12+ months at a time).

The Internationally sourced income will be taxable in New Zealand if you are a New Zealand tax resident. However, it may also be taxable in the country of source under that country's domestic tax law. Subpart LJ of the ITA allows a New Zealand tax residents to claim a credit for any foreign tax paid on foreign sourced income when declaring that income in their annual income tax return. However, as mentioned in question 2 the amount of the foreign tax credit must not exceed New Zealand tax calculated under section LJ 5 of the ITA. I have again assumed that the permanent place of abode test applies in this situation.

Thank you for writing. I trust that my comments are of assistance.

Yours sincerely



Craig O'Halloran
Officer, Inland Revenue