

## Table of Contents

Residency .....	2
Residency - Individuals .....	4
Residency – Companies .....	8
GST .....	10
Assessable Income (s6-1) .....	17
Income from business .....	24
Income from Property .....	31
Fringe Benefit Tax .....	33
Specific Deductions (s8-5) .....	41
General Deductions (s8-1) .....	44
Companies .....	54
Imputation tax system .....	57

## Residency - Individuals

### Introduction (copy this introduction in any residency question)

- Residency is determined under **s6(1) of ITAA36**.
- There are 4 residency tests to determine residency in Australia.
  - We will consider the ordinary resident test (always consider this test)
  - The domicile test => satisfies if born in Aus
  - TP does not satisfy the 183-day test because he was not physically present for at least 183 days in Aus during the year ended **30 June 2016 (see what date the q is asking)**.
  - TP does not satisfy the superannuation scheme test because he is not a member of any superannuation scheme.

### Ordinary resident test

- A person is a resident for tax purposes under this test if that person ‘resides’ in Australia (**s6(1) ITAA36**). To reside in Australia is a question of fact and depends on the TP’s actions (**Lysaght**)
- Using the ruling **TR 98/17** as **guidance**:
  - **Physical presence** – Suggests that a person has to spend a considerable amount of time in Australia, 6 months, to “reside” in Australia.
    - In **Joachim**, the court showed that physical presence is not determinative and other factors should be considered.
  - **Frequency of visits**
    - In **Levene and Lysaght** the court showed that **physical presence was not a main factor** for someone to reside in a country.
    - Instead, **the main factor** for the taxpayer to reside in a country was the **continuous ties and visits** to that country (Aus in our case) despite being abroad for a considerable amount of time.
    - **Compare with our current facts. In our case...**
      - Does the TP frequently visit Aus?
        - Consider if he does due to social/business tie
  - **Purpose of visits: Does the TP have strong business/social ties in Aus?**
    - Consider
      - on-going employment,
      - Family business, any business
      - Bank accounts/ memberships
      - Social commitments,
      - **Any Immediately family** that the TP has in Aus.
        - Yes => likely to be resident ; No => less likely

- Cite **Joachim**: Was overseas 316 days/year but still a resident due to strong family ties
  - **Was the trip overseas a Temporary trip?**
    - Stayed in Hotels => suggests temporary
    - Rented / bought a place => considerable amount of time
      - in **Levene**, TP was a resident of Aus until he took a lease in another country => suggests do not reside in Aus
  - **Does the TP still maintain his place of abode?**
    - Rented out for a long time => suggests he will be away for a long time
    - Sold house => no longer maintaining place of abode => does not 'reside' in Australia.
  - TP nationality
    - Not a very strong factor, seldom considered.
- **Conclude if resident under Ordinary residency test.**
- **Although rulings are not law, we can see that they are supported by the cases.**

Therefore, consistent with the court's decisions from the cases, we conclude that Ernie does have a permanent place of abode outside Australia and he is not a resident of Australia.