

child developed a medical condition that required treatment in Australia. Laurence and his family immediately returned to Australia on 1 May 2012.

On returning to Australia he decided, because of his child's medical condition, not to return to Singapore. He therefore resigned from the Singapore company. He received a lump sum of \$250,000 from his Singapore ex-employer in respect of his agreement not work for any other investment consultant business in Singapore within three years of the termination of the contract.

In May 2012 Laurence began running his own investment advisory practice as a sole practitioner. Fortunately, he was able to provide a service to a client shortly after beginning business. He billed this client for fees of \$5,000 in June 2012, but did not receive the cash payment for this account until August 2012. This was the only client he billed for the year ended 30 June 2012.

Since the tax year will be ending on 30 June 2012, he is concerned about his Australian tax liability for the period 1 July 2009 to 30 June 2012.

REQUIRED

Advise Laurence on the tax consequences of the above facts referring to appropriate case law and legislation.

RESIDENCE

The issue arising in this particular case is to determine whether Laurence Wong is a resident or non-resident for tax purposes in Australia. According to Ordinary income – section 6.5, if Laurence is deemed to be an Australian resident he will be taxed on income from all sources worldwide as Australia works on a worldwide tax system, however if he is found to be a non-resident for tax purposes, he will be taxed on income only sourced in Australia.

Definition of a Resident s.6

Resident of Australia means, A person other than a company who resides in Australia (common law definition) and includes a person:

Statutory Tests

1. Domicile Test (applicable, discussed below)
2. 183 Day Rule - irrelevant to this particular case
3. Superannuation Test – irrelevant, as not a diplomat.

Only one of the tests needs to be satisfied to confirm residency.

Common Law issues to consider determining Laurence's residency for tax purposes, as he moves to Singapore for employment are:

- Where will Laurence *physically* be located during the year?
- What *connections* does he have with the countries concerned?
- Does he *maintain* a place of abode in Australia?
- Has Laurence any business and family *connection* to Australia?
- What are his daily *routines* and *behaviors*?

Clearly under the common law, Laurence is not an Australian resident as all the above factors point to his residing in Singapore.