

TAX FACTSHEETSUBCLASS 870 VISA HOLDERS

This factsheet discusses the taxation of individuals who have been granted subclass 870 sponsored parent temporary visas (SPTVs).

The subclass 870 visa is a temporary visa with a validity period of 3 years or 5 years.

It can be renewed, with a total permitted period of stay in Australia of 10 years.

It is frequently used as a visa permitting an extended period of stay in Australia while a decision is awaited on a subclass 143 Contributory Parent permanent residency visa.

Residency

The two main factors affecting an individual's liability to tax in the UK and Australia are residence and source of income.

The nature of the income being received by the taxpayer can also be a relevant factor.

Thus, a non-UK resident individual will not be subject to tax in the UK on income that has a source outside the UK – such as a salary from an Australian employment.

Similarly an individual is usually not subject to tax in Australia on (say) income from a let property in the UK until s/he becomes a tax resident of Australia – but see the discussion below in respect of temporary tax residents of Australia.

When an individual departs the UK to live in Australia the UK tax year is usually split into a period of residence – the period leading up to the date of departure from the UK to migrate to Australia – and a period of non residence.

Upon arrival to live in Australia as the holder of a temporary residency visa an individual will usually become a tax resident from that time.

When an individual moves to Australia and becomes a tax resident of Australia as the holder of a permanent residency visa the individual's worldwide income becomes taxable in Australia.

**However, tax exemptions in Australia are available in respect of foreign investment income** where:

- You hold a temporary visa granted under the *Migration Act 1958*
- You are not an Australian resident within the meaning of the *Social Security Act 1991*
- Your spouse (if applicable – this includes de fact partners) is not an Australian resident within the meaning of the *Social Security Act 1991*.

A subclass 870 visa is a temporary visa under the Migration Act 1958.

In respect of the applicable provisions of the Social Security Act 1991, an Australian resident for this purpose is a person who resides in Australia and has permission to remain permanently—either because they are an Australian citizen; the holder of a permanent visa; or a protected Special Category Visa holder.

In deciding whether a person is residing in Australia, factors such as the person's domestic, financial and family ties to Australia are taken into account, as well as the frequency and duration of any absences from Australia and the reasons for such absences.

**This means that most holders of subclass 870 visas will not be subject to tax in Australia in respect of pension income or investment income arising in the UK.**

**We are in the UK and in Australia:**

- UK (Epsom) 01372 231 185
- Sydney 02 9169 5919
- Melbourne 03 9958 7969
- Perth 08 6180 2533
- Brisbane 07 3218 7388

**Please contact us for a free no obligation consultation about how bdh Tax can help you plan and manage your taxation affairs.**

**tax@bdhtax.com**

**www.bdhtax.com**

Pension income from the UK is solely taxable in the UK if you are residing in Australia as the holder of a subclass 870 visa.

In other words there is no change to the taxation of UK pension income when you are living in Australia as the holder of a subclass 870 visa.

As a rule it is only once you have been granted a permanent residency visa that UK source pension income becomes solely taxable in Australia by virtue of Article 17 of the Tax Treaty between the UK and Australia.

Also, capital gains arising on the disposal of investments such as shares in Australia are usually not taxable in Australia while you have a subclass 870 visa.

Note that your entitlement to the UK's income tax personal allowance is not affected by how long you are a tax resident of the UK – nor indeed whether you are a tax resident for any part of the UK tax year.

This should be contrasted with Australia's tax free threshold, which is not available if you are not a tax resident of Australia at any time of the Australian tax year; a part year tax free threshold is available though if you are a tax resident of Australia for any part of the Australian tax year.

See our separate factsheet on tax rates and tax free thresholds in Australia for more information in this regard.

Please feel able to make enquiry of us if you would like to more fully understand the issue of your tax residency in the UK and/or Australia.

### **Letting a UK Property**

Many move to Australia and decide to let a UK property, which is commonly a former main residence.

Key points to bear in mind if you are going to let a UK property when you move to Australia as the holder of a subclass 870 visa are:

- The net rental income remains subject to tax in the UK – but the availability of the UK personal allowance often means there is no tax to pay to HM Revenue.
- As a temporary visa holder the UK rental income is not subject to tax in Australia.
- **However, such income is to be disclosed on an Australian tax return as what is called “target foreign income.”**
- Ditto for all other types of investment income that are not taxable in Australia.
- Non UK residents letting a property in the UK are required to enrol in the UK's Non Resident Landlord (NRL) scheme, otherwise basic rate tax is required to be withheld from rental income collected by the managing agent, or by the tenants of the property if there is no managing agent.
- Remember the need to consider capital gains tax when a UK property is eventually sold by a non-UK resident/resident of Australia. If you are considering the sale of a UK property bdh Tax can prepare CGT computations in advance of a planned disposal so you have a good feel for the tax position if you proceed with the sale.

### **Do You Need to Lodge a UK Tax Return?**

If you are not already submitting a UK tax return under the Self Assessment regime see the questionnaire at this web link on the HM Revenue web site:

<https://www.gov.uk/check-if-you-need-tax-return>

Note that the Residence supplement to the UK tax return – which confirms your non-UK resident status - cannot be submitted through the HMRC portal.

As a non resident you must:

- Lodge a paper tax return (note the earlier tax return filing deadline compared with an e-lodged tax return)
- Submit a tax return using commercially available software
- Instruct a tax accountant to prepare and lodge your UK tax return – such as bdh Tax

### **Notifying HM Revenue of Departure from the UK**

Individuals who are departing the UK to spend an extended period in Australia should advise HMRC of the cessation of residency.

This is done in one of two ways:

- If you are completing tax returns under Self Assessment: through the submission of the Residence supplement to the tax return for the year of departure
- If you are not lodging a UK tax return, through the completion and submission of a form P85

If you leave the UK part of the way through a tax year after a period of employment in which your salary has been subject to tax under PAYE and you do not have untaxed income (such as rental income) you should receive a tax repayment once you have advised HMRC of your departure from the UK.

### **One More Tax Planning Point**

Don't delay obtaining a Tax File Number from the Australian Taxation Office soon after you arrive in Australia. Not doing so can mean tax is withheld at 47% from wages in Australia and from interest on bank deposits.

In our experience the TFN application cannot be submitted online by subclass 870 visa holders as a result of the no work condition attaching to subclass 870 visas.

Rather, a paper application form must be submitted.

We maintain a stock of these paper TFN application forms and will be pleased to send one or two to you; if this is of interest please complete the enquiry form at [www.bdhtax.com](http://www.bdhtax.com)

Having obtained a TFN the ATO will require you to submit a tax return after the end of the Australian tax year – or you can submit a Non Lodgement Advice if you do not meet the requirements to submit a full tax return.

### **Tax Return Filing Deadlines**

Key dates to remember are as follows:

#### UK

- Tax year end = 5<sup>th</sup> of April
- Tax return filing deadlines:
  - Paper return = 31<sup>st</sup> of October
  - Electronic return = 31<sup>st</sup> of January

#### Australia

- Tax year end = 30<sup>th</sup> of June
- Tax return filing deadlines:
  - No tax agent appointed = 31<sup>st</sup> of October
  - Tax agent appointed = 15<sup>th</sup> of May (usually)

Most individuals who are tax residents of Australia complete and lodge a tax return each year.

### **Obtaining Permanent Residency in Australia**

To confirm the details above, once you are granted a permanent residency visa the taxation of pension and investment income with a source outside Australia will change from being exempt from tax in Australia to being taxable.

The capital gains tax position in respect of investment assets located outside Australia should also be considered.

Once a permanent residency visa has been granted the disposal of an investment that was previously exempt from CGT by virtue of the temporary resident exemptions will be subject to capital gains tax in Australia; the capital gain is computed with reference to the value of the asset on the date the tax exemption ceases to be available, which is usually the date on which the permanent residency visa is granted.

### **Help With Your Tax**

bdh Tax is a boutique firm of tax accountants with offices in the UK and in Australia.

We are registered tax agents in Australia (there is no equivalent registration requirement in the UK), and can prepare and e-lodge tax returns with HM Revenue and the Australian Taxation Office.

Our team are professionally tax qualified in the UK and in Australia.

We specialise in the preparation and filing of tax returns in the UK and Australia, and with tax planning for those who are moving between the two countries.

The fee of a registered tax agent for assisting with the management of your Australian tax affairs is a tax deductible expense and therefore reduces your Australian tax liability.

In other words, our fee for assisting with your Australian tax affairs is a tax deduction in your Australian tax return.

Where UK income is also to be included on a tax return in Australia - and as certain information obtained/schedules prepared in connection with a UK tax return can also be used in respect of an Australian tax return - we are usually able to claim a tax deduction on an Australian tax return for a proportion of our fee for helping with a UK tax return if we are instructed to assist with UK and Australian tax returns.

The tax saved as a result of claiming this tax deduction will depend on your marginal rate of income tax in Australia.

Please feel able to complete the enquiry form at [www.bdhtax.com](http://www.bdhtax.com) if you would like a free no obligation initial discussion about your situation and tax planning in the UK and Australia.

We look forward to hearing from you.

*Disclaimer: This factsheet is for information only. No liability is accepted for any reliance placed on the above. We recommend that you take professional advice that is specific to your situation when moving between tax jurisdictions.*