

NEWSFLASH BOOKLET

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BACKPACKING FRUIT PICKERS ON A WORKING HOLIDAY VISA

Introduction

The Australian financial year runs from 1st July to 30th June.

Non residence of Australia for Tax purposes are subject to a tax rate of at least 29% on their earnings in Australia. Once their income exceeds \$25,000 they are taxed at 30% until their income reaches \$75,000 then it is taxed at 40% until \$150,000 when it is taxed at 45%. This means that once their income exceeds \$25,000 non residents are subject to the same rates as residents but no Medicare levy. There is considerable advantage in being a resident for tax purposes because the first \$6,000 you earn per year (pro rata if only a resident for part of the year) is tax free and the next \$19,000 is only taxed at 15%, plus Medicare levy of 1.5% if applicable.

International students doing a course that exceeds 6 months are considered residents for tax purposes but due to the conditions of their visas it is very difficult for visitors on a working holiday visa to qualify as residents.

For a quick test on whether you are a resident go to:

<http://calculators.ato.gov.au/scripts/axos/axos.asp?CONTEXT=&KBS=resident.xr4&go=ok>

If you have worked in Australia your employer would have made superannuation contributions on your behalf. With the exception of New Zealanders all overseas residents on a working holiday or student visa are entitled to claim this superannuation back when they return to their home land. Note it will be taxed at 30%.

Residency basics

Whether you are a resident for tax purposes has nothing to do with your country of residency. Just being in Australia for 6 months could make you a resident for tax purposes.

TR 98/17 (available from www.ato.gov.au) discusses this matter in detail. If you reside here permanently it is not a problem but if you enter Australia temporarily the issue is complex. Relevant factors are:

- 1) The length of time in Australia – 6 months is the key here. If you are here for less due to unforeseen circumstances but had originally intended to stay for longer you may still qualify. But 6 months is not enough you must also meet point 2) below
- 2) The nature of your activities while here:
 - (a) Whether you were working or holidaying.
 - (b) Whether you settled into a routine resembling that of having taken up residence. For example setting up a home and involvement in regular social and sporting activities.

It is point 2) that makes it difficult for fruit pickers to qualify as a resident for tax purposes. Usually the fruit picking is a minor part of a holiday and the very nature of fruit picking makes it difficult to have a “settled routine” and home. Further the working holiday visa only allows you to work for the same employer for a maximum of 3 months, though you can apply to have this extended once you arrive in Australia.

Example 9 from TR 98/17 states:

Janine Edgerton is a British national who has longed to spend twelve months ‘down under’. After saving for years, she takes twelve months leave from her work and departs for Australia on her twenty-fourth birthday. Although she travels with considerable savings, her intention is to spend at least part of her time working. She has obtained a restricted working visa enabling her to work for no more than three months with one employer.

Through a contact in Australia she is assured of work in Perth for the first three months. After that period she decides to travel to the east coast via Adelaide. She spends a month in Adelaide where she works for two weeks and continues her journey to Melbourne.

Once there, she meets some friends from back home. After working for a further three months, she decides to spend the balance of her time in Melbourne and uses her savings for living expenses. To keep costs down, she leases a house with two other friends. At the end of her twelve months in Australia, she returns to the United Kingdom.

Although Janine obtains work, by travelling from place to place she has not established a pattern of habitual behaviour, even though she is physically present in Australia for twelve months and she co-leases a house. Janine's main purpose for being here is to have a holiday and she is merely supplementing her savings by working.

In example 10 a student stays for less time than Janine but he is considered a resident.

Example 10 from TR 98/17:

Dipak Neviott is a student from India who comes to Australia to study for a four year bachelor degree in civil engineering. Dipak lives in rental accommodation near the university with fellow students and works part-time at the university social club as a barman. After six months, he has to withdraw from his studies and return to India because his father is ill.

Dipak's routine of study and continuing accommodation on campus establishes a pattern of habitual behaviour over the six months. His employment adds support to the conclusion he is residing here.

Both examples exceeded the 6 months so it is not really a matter of the time spent but the lifestyle while they were here. If you do not have a home base somewhere else other than Australia you could argue you are a resident even if you are here for less than 6 months but, again, if you were mainly holidaying this would not be the case.

Example 12 from TR 98/17

Abdul Farouk is a talented self-employed computer programmer who is able to obtain contract work with different multinational corporations around the world. Abdul is single and has no particular social or economic ties to any country. He is a successful businessman with investments scattered around the world.

Abdul spends five months in Australia working as a computer programmer with a large multinational manufacturing company. Before arriving in Australia he spent four months in Singapore working with a pharmaceutical company, and when he leaves Australia he plans to spend five months working in Japan.

During his stay, Abdul rents an apartment in Adelaide where the majority of his business is conducted, although he does spend one month commuting between the Sydney and Brisbane branches of the company.

Abdul is regarded as a resident for the duration of his stay in Australia. Abdul has no particular ties to any other country and his stay in Australia is within the ordinary habits of his lifestyle as a worldwide travelling computer programmer. In this instance, these factors outweigh the short duration of his stay.

Your visa may be a deciding factor for example if it only allowed you to work for a small percentage of the time you are in Australia. TR 98/17 states at paragraph 36 that individuals who are enjoying an extended holiday in Australia are not treated as residents. Paragraph 48 states that a settled purpose, such as employment or education may support an intention to reside in Australia. However, the intention must be more than merely being a traveller or visitor who may supplement their savings by obtaining casual employment. Paragraph 49 also points out that a person staying for a short period (such as 4 weeks) just for the purpose of employment will still not qualify as a resident.

Note our double tax agreements have specific rules for exchange teachers and students.

Visas

Most overseas fruit pickers come into the country on a 12 months working holiday visa (class 417) that only allows them to work for up to 3 months for any one employer. The very nature of this visa does make it difficult for fruit pickers to meet the residency criteria of settled routine. Nevertheless, it is possible to still live at the one house for more than six months and have two different employers in the same area. Combine this with joining a social club and you are on your way to meeting the residency requirements. If you spend the majority of your time travelling you will not qualify as discussed above. If you are thinking of using the fruit picking circuit to see Australia you will not be settled enough to meet the residency requirements.

The Australian government has just made it easier to extend your visas to allow you to work for one employer for up to 6 months and stay in Australia for up to 2 years. These extensions need to be applied for after you arrive in Australia.

For more information about work visas go to www.dimia.gov.au

Rates of tax

Non Residents:

If you are a non resident for tax purposes you are not charged the Medicare levy. Australian Tax Rates will change between the 2006 and 2007 financial year.

1-7-05 to 30-6-06		1-7-06 to 30-6-07	
\$0 to \$21,600	29%	\$0 to \$25,000	29%
\$21,601 to \$63,000	30%	\$25,000 to \$75,000	30%
\$63,001 to \$95,000	42%	\$75,001 to \$150,000	40%
Over \$95,000	47%	Over \$150,000	45%

The tax rate is 29% on the first \$25,000 then 30% on the next \$50,000 and 40% on the next \$75,000. If your Australian taxable income is over \$150,000 it is then taxed at 45% on every dollar over.

Residents:

Most residents are subject to a 1.5% Medicare levy plus an extra 1% surcharge if you have no private health insurance are single with no dependant children and your income exceeds \$50,000. If you are a family the combined threshold is \$100,000. New residents to the country who do not qualify for a Medicare card do not have to pay the levy. There are a few other exemptions such as members of the defence force, low income earners etc. Excluding the Medicare levy the resident rates of tax are:

1-7-05 to 30-6-06		1-7-06 to 30-6-07	
\$0 to \$6,000	0%	\$0 to \$6,000	0%
\$6,001 to \$21,600	15%	\$6,001 to \$25,000	15%
\$21,601 to \$63,000	30%	\$25,000 to \$75,000	30%
\$63,001 to \$95,000	42%	\$75,001 to \$150,000	40%
Over \$95,000	47%	Over \$150,000	45%

Note some rebates may apply to reduce the tax amount i.e. low income rebate of \$235 for 2006 and \$600 for 2007, zone rebates, dependant rebates, medical expenses rebates etc.

Withholding Tax:

If your employer is aware that you are a non resident he or she should be deducting tax from your pay at the rate of 29%. Australian resident fruit pickers will only have tax deducted from their pay at the rate of 13%. Tax deducted by employers is only a method of collection, your true tax liability is calculated when you lodge your income tax return. If you have paid less than 29% on any of your Australian income you will be required to pay the balance at this time.

Medicare

The test to qualify for Medicare benefits (subsidised health care) is different to residency for tax purposes. People in Australia temporarily will generally not qualify for Medicare benefits. In some cases Australia has reciprocal medical arrangements with other countries. Check with your embassy.

New Zealanders are entitled to full Medicare benefits. If you do not have a Medicare card you will be charged a fee but you can take your passport to a Medicare office and claim back the refundable portion.

Paragraph 251U(1)(f) of the Medicare Levy Act 1986 ensures that people who do not qualify for the benefits do not have to pay the Medicare Levy even if they are residents for tax purposes. If you are a resident for tax purposes you will be automatically charged the Medicare levy when you lodge your tax return unless you utilise the exemption at item M1.

Superannuation

While you are working in Australia your employer should be making a contribution equal to 9% of your “ordinary times earnings” to an Australian superannuation fund on your behalf. Once you have left Australia you can apply to the superannuation fund to have the amount paid to you. It will be taxed at 30% so you may consider leaving it with the fund until your retire. Though if it is only a small amount its earnings may not exceed the fees charged. Before leaving your superannuation in Australia you should check the tax laws in your country of origin. You may find that the earnings on the superannuation will be taxed as if you actually earned the income yourself, even though the proceeds remain within the superannuation fund in Australia.

To arrange to withdraw your superannuation go to www.ato.gov.au/departaustralia once you have permanently left Australia.

New Zealanders regardless of the visa they come into Australia on are not entitled to draw their superannuation back out when they leave.

Deductions

Given the right circumstances fruit pickers are entitled to claim their meals, motor vehicle expenses and accommodation from the moment they leave home. To qualify they need to have a home base which can be a room at their parents or children’s home. They also need to work at, at least two different places before they return home and they must not set up another home while they are travelling. Note this will work against any plans to qualify as a resident for tax purposes unless you have a family home in Australia. To substantiate your claim you will need to keep a travel diary and receipts.

Full details of the deductions available to fruit pickings are documented in our Claim Your Trip Around Australia Booklet which is under the free publications section on our website.

Summary

To be considered an Australian resident for tax purposes (except for unusual circumstances) you would need to have settled into a routine and home in Australia for 6 months. The visas issued to overseas fruit pickers only permit them to work for the same employer for a maximum of 3 months (though an extension of another 3 months can be applied for) and generally they use the fruit picking circuit as a method of seeing the country. This lifestyle would have to be modified considerably to qualify as a resident of Australia for tax purposes. Unless they do not meet the residency criteria of any other country they will generally not qualify as residents for tax purposes.

Non residents of Australia for tax purposes will be taxed at a minimum of 29 cents in the dollar. Farmers normally only withhold 13% tax from fruit picker’s pay. They should actually withhold 29% if the fruit picker is a non resident. When a non resident fruit picker lodges his or her Australian tax return the ATO will request the rest of the tax. If the fruitpicker keeps diaries and receipts they may be able to claim their living and travelling expenses as a tax deduction against their fruit picking income. More details on this are available in our Claim Your Trip Around Australia Booklet.

Lodging Your Tax Return

You can prepare the tax return yourself by going to www.ato.gov.au If you would like professional help from a firm specialising in this matter please contact one of the offices on the front page of this booklet. You may even consider contacting BAN TACS before you enter Australia and make arrangements to use their mailing address for your PAYG summaries so that when you have returned home they can still complete the tax return for you and e-mail you details of any tax owing or deposit refunds directly into your bank account.

Please note that BAN TACS will require an up front payment of \$160 before work will commence on the preparation of your income tax return. If you are not claiming more than the basic tax deductions the \$120 should cover the full cost of the return. Consider arranging and paying for your tax return before the 30th June in the year you work in Australia as your fee for the tax agent will be deductible against your Australian earnings. If you wait until after the 30th June the fee will be deductible against the next year's Australian earnings and as you will have none, will be of no benefit to you at all.

Back Issues & Booklets

To obtain free back issues of the fortnightly BAN TACS Newsflash or any of the following booklets visit our web site at www.bantacs.com.au/publications.php. You can also subscribe to our Newsflash reminder.

Alienation of Personal Services Income
Claim Your Trip Around Australia
Death and Taxes
Defence Forces [Military]
Goods and Services Tax
Insurance and Superannuation
Overseas Backpacker Fruit Pickers
Real Estate Agent
Secret Plans and Clever Tricks
Solicitors Selection
Wage Earners

Buying a Business
Claimable Loans
Divorce
FBT for PBIs
Home Loans
Investors
Overseas
Rental Properties
Selling a Business
Subcontractors
With Attitude

Capital Gains Tax
Claiming a Motor Vehicle
Division 35
Fringe Benefits Tax
How Not To Be A Developer
Key Performance Indicators
Professional Practices
Retirees
Small Business
Teachers
Year End Tax Strategies

Disclaimer: Please note in many cases the legislation referred to above has only just passed through parliament. The full effect is not clear yet but it is already necessary to make you aware of the ramifications despite the limited commentary available. On the other side of the coin by the time you read this information it may be out of date. The information is presented in summary form and intended only to draw your attention to issues you should further discuss with your accountant. Please do not act on this information without further consultation. We disclaim any responsibility for actions taken on the above without further advice as to your particular circumstances.

INVESTMENT NETWORKING

FOR YOUR
BUSINESS AND YOU



some **work** others **network**

learn how to

drastically advance **your financial future**

through property and personal investment



Australian Property Investors Network (APIN)

www.apin.com.au

What does APIN offer ?

Seminars & Workshops

Why is that most people aren't taught how to be rich or happy? We are trained to do most things in our lives, in order to do them well enough to get by. We are taught how to read and write, how to cook, how to drive. We are taught how to do incredibly complex and challenging tasks like designing and building bridges over wide spaces, how to cure diseases, to fly airplanes, yet when it comes to creating personal wealth and happiness, we're left to find out for ourselves.

There's another, more subtle reason why most people don't achieve wealth and happiness. Deep down they don't believe that there is a choice to be made between being rich and being happy. They believe that somehow you can't have both, which is why in the end they don't get either.

The money that slips through your fingers could make you wealthy if spent more wisely.

Our free seminars and information evenings will provide you with leading edge valuable and up to date information. As a bonus you will be able to meet other like minded people who are either starting out on the road to success or are avid investors sharpening their investment knowledge. As a further advantage we encourage you to meet and freely talk with our alliance

partners. These hand picked people both male and female are leaders in their own right, they are also licensed, qualified and independent.

These evenings are fun and informative plus you will have access to lots of support material in the form of e-books, books and cd's on a wide range of topics. Come and learn the many strategies used by successful investors NO SECRETS just sensible plain English techniques that really work in any market at any time.



Education

It's true what they say "the difference between the rich and poor is what they know and what they do". Property is more than houses and unit investing. Do you know how to buy a property using an option, how about knowing all the ins and outs of being your own "DIY Developer"?

There are many ways to make money in real estate and with the correct tools and strategies you too can play with the best.

TIME x INTENSITY = SUCCESS.

You can't expect to get results in life if you have all the information but fail to apply the principles needed to succeed.

Our programs, e-book, books and home study kits will give you the ability to learn and gather what you need at your own pace in your own time. We encourage you to learn from our expert alliance partners all that you can, so when you are ready to act you will have the education to get into your first investment or do your own JV building renovation makeover.





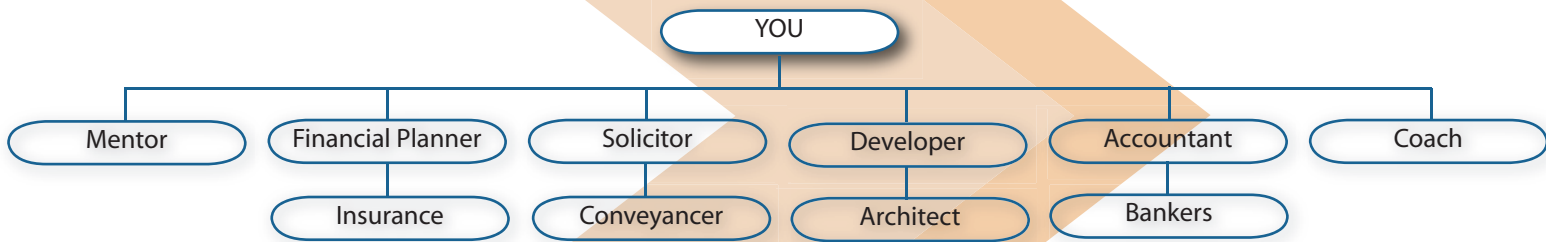
On going Support

Through APIN's Alliance Partners and Discussion Forums you can fortify your ideas and gain strength by exchanging information. Creating alliances generates business opportunities increasing your network and of course - your cashflow.

We have a mentoring service for those that are not quite ready to take those steps without guidance, extra information and some affirmation. Helping you to create a "safe" environment for your first steps.

Who is on your team?

When looking at people who are successful, you will notice they have a hand selected group of people to support and advise throughout the journey to success.



Property Opportunities

Through our Australia wide network we select opportunities that "stack up". We use an independent Research company (Guardian) who are licensed financial planners and real estate agents to use our pre selection due diligence program. From investment properties, development sites, future land subdivisions, building makeovers to even golf course resort projects.

APIN also align ourselves with a select group of builders and developers where we negotiate wholesale purchasing, saving you 10% off the retail price. These opportunities are not available to the public but only members of the APIN site. We can introduce you to the key people who are experts in their fields, saving you thousands of hours of frustration and heartache. Very shortly APIN will also be offering FREE property advertising on our site through resisearch.com who are one of our alliance companies. APIN is fast becoming the most exciting site in Australia.