

Examples



Emily - teaching in Japan

Facts

- Emily leaves Australia to work in Japan as a teacher of English.
- She has a one-year contract, after which she plans to tour China and other parts of Asia before returning to Australia to resume work here.
- During her time in Japan, she lives with a family who treat her as one of their own.
- She rents out her property in Australia during her absence.
- Emily is single. Her parents live interstate, and her brother has moved to France.

Outcome: why is Emily considered an Australian resident?

Even though Emily is residing in Japan, under the domicile test:

- her domicile is in Australia (a resident who has always lived in Australia will generally retain a domicile here when they are absent overseas, unless they choose to permanently migrate to another country)
- her permanent place of abode remains in Australia.



Bronwyn - an extended job overseas

Facts

- Bronwyn, an Australian resident, has received a job offer to work overseas for three years, with the option to extend for another three years.
- Bronwyn, her husband and three children decide to make the move.
- They retain their property in Australia, as they intend to return one day.
- The house will be rented out during their absence.
- Bronwyn is uncertain whether she will extend the option to stay after three years, and will decide later, depending on how the family like the life there.
- While overseas, they will rent a house with an accommodation allowance provided under her contract.

Outcome: why is Bronwyn considered a foreign resident?

The resides test is not satisfied because the length of Bronwyn's physical absence from Australia and the surrounding circumstances (such as establishing a home overseas with her family and renting out her family home in Australia) are not consistent with residing in Australia, even though she has retained the family home in Australia.

The domicile test is not satisfied because:

- her permanent place of abode is outside Australia due to
 - the length of time she has committed to spending overseas
 - establishment of a home overseas, and
 - her family accompanying her
- the fact that she will not be selling the home in Australia, although relevant, is not persuasive enough to overcome the finding on the basis of the other factors
- it is arguable that she has abandoned her home in Australia for the duration of her stay, by renting it out.



i These examples are intended as a guide. Residency determinations depend on your individual circumstances. More examples are available at ato.gov.au/residencyexamples

This is a general summary only

For more information, speak with your registered tax agent, phone us on **13 28 61** or visit ato.gov.au/residencyandtax