

## Speaker introduction: David Lechem Director and Co-founder AGEIS

BCom (Major in Accounting)/LLB (University of NSW); Masters of Law (University of Sydney)  
Chartered Tax Advisor (The Tax Institute); Law Society of New South Wales

### Professional Background

- As a Tax Lawyer for almost 20 years, David has worked for Australian and international clients including private clients, high net wealth individuals and businesses in a range of industries.
- David is the co-founder of Ageis, and is the Director of Ageis Tax Legal, an incorporated legal practice in New South Wales, Australia.
- Ageis delivers premium accounting, tax, legal advice and family office services across a wide range of clients and industries. Our philosophy is to provide a premium service across multiple professional disciplines that is tailored to your specific needs. As your trusted advisors we partner with you and your future generations.
- To find out more about Ageis refer to [www.ageis.com.au](http://www.ageis.com.au).



### Ageis Advisors Pty Limited

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## Australian Tax Residents

### Who is an Australian Tax Resident?

- Australian tax residents are taxed on their worldwide income.
- There are a number of tests to determine Australian tax residency. A person will be regarded as a resident for Australian tax purposes based on the following tests:
  1. if they reside in Australia (“resides test”);
  2. if their domicile is in Australia, unless the Commissioner is satisfied that their permanent place of abode is outside Australia (“domicile test”);
  3. if they have actually been in Australia, continuously or intermittently, for 183 days or more during the income year, unless the Commissioner is satisfied that their usual place of abode is outside Australia and that they do not intend to take up residence in Australia (“183 days test”); or
  4. if they are:
    - i) a member of a particular government superannuation scheme established by deed under the Superannuation Act 1900; or
    - ii) an eligible employee for the purposes of the Superannuation Act 1976; or
    - iii) the spouse, or a child under 16 of a person covered by subparagraph i) or ii).



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## Australian Temporary Residents

### Overview and what is an Australian Temporary Resident?

- To encourage investment and immigration, Australia introduced a regime where Australian tax residents who are temporary residents are eligible for significant tax concessions.
- A person is a temporary resident if they hold a temporary visa and they or their spouse are not and have never been Australian tax residents holding either:
  - Australian citizenship;
  - a permanent visa; or
  - a special category visa which is a protected SCV holder (largely applies to New Zealand citizens or in a limited number of other special circumstances).
- Examples of temporary visas include temporary work visas or significant investment visas or business visas.
- The visas described above can provide a pathway to permanent residency and potentially Australian citizenship.



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## Australian Temporary Resident Rules

### What tax concessions are available to temporary residents?

Temporary residents who are Australian tax residents are eligible for the following concessionary treatment:

- ordinary and statutory income (but not capital gains) derived from sources outside of Australia is not taxable, except income that relates to employment or services provided while a temporary resident;
- Capital gains which are derived in respect of the disposal of any assets which are not direct or indirect interests in Australian real property are disregarded;
- exempt from any deeming provisions that seek to tax certain undistributed income made by foreign companies and trusts;
- exempt from the obligation to pay 10% withholding tax on any interest payments made to foreign lenders; and
- exempt from paying Medicare Levy (currently up to 2% of taxable income) provided that the temporary resident applies for the concession.



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## Australian Temporary Resident Rules

### What are temporary residents taxed on?

Temporary residents are subject to tax on the following:

- Australian sourced income including income made from investments in Australian situs assets (e.g. interest income, dividends, rental income);
- Worldwide employment and services income;
- Distributions from trusts of income derived directly or indirectly from Australian situs assets;
- Capital gains made on the disposal of direct and indirect interests in Australian real property; and

Note additional land tax and stamp duty may apply on real property purchases and holdings.  
(Note: Foreign investment review board requirements).



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## Australian Temporary Resident Rules

### What are the tax rates for temporary residents?

- For 2020/2021 temporary residents pay tax on their taxable income at the individual Australian resident tax rates, currently as follows:

Taxable income	Tax on this income
0 – \$18,200	Nil
\$18,201 – \$45,000	19c for each \$1 over \$18,200
\$45,001 – \$120,000	\$5,092 plus 32.5 cents for each \$1 over \$45,000
\$120,001 – \$180,000	\$29,467 plus 37 cents for each \$1 over \$120,000
\$180,001 and over	\$51,667 plus 45 cents for each \$1 over \$180,000



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## Becoming a permanent resident

### What are the implications?

If you or your spouse are granted a permanent resident visa you would be subject to tax on your worldwide income. Additionally:

- Attain a market value cost base in each capital gains tax asset that you own;
- The concessional tax treatment would no longer apply;
- Not be eligible for Medicare Levy exemptions;
- Taxed on a receipts basis in respect of dividends and trust distributions; and
- Potential for tax on a deemed basis in respect of controlled foreign company (CFC) and transferor trust retained income.



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## Conclusion

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### How can we assist?

- Australia is an island with closed borders and a progressive regulatory regime.
- Whether applying for an Australian temporary visa or permanent visa your global affairs should be considered carefully, and the interplay with your home country.
- Having seen through the worst of the ongoing global pandemic, we see an increased desire for immigration to Australia and have assisted numerous clients in navigating Australia's tax system when they are applying for a temporary visa or permanent visa.



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