

Fact Sheet

Impact of residency on insurance



A client's residency status may change over time, so it is important to know the impact this may have on the client's ability to obtain cover, whether cover can continue if the client moves overseas, and the tax treatment of any proceeds paid. We discuss each of these points below.

Obtaining and maintaining cover

People who have been granted permanent residency in Australia can apply for Term Life, TPD, Living (Trauma) and Income Protection cover. In certain situations, cover can be considered for individuals who are non-permanent residents, such as holders of certain visas (e.g. working visas or specific temporary visas such as a spouse or an employer sponsored visa). This may vary across insurers.

Retail policies, once commenced, will generally provide worldwide cover. Therefore, if the insured person subsequently moves overseas, they will still be covered under the same terms. However, in order to meet claim requirements, the insured person may need to return to Australia, otherwise non-death insurance proceeds may not be paid, or may be limited. This is known as a 'repatriation clause'.

Some group insurance policies may limit cover to the length of time that the insured person has Australian residency or is eligible to work in Australia.

Tax treatment of proceeds

If a successful claim is paid from an Australian insurer, the tax treatment of proceeds will depend on the ownership structure of the policy, the tax residency of the insured person, and whether a tax treaty exists between the country of issue (Australia) and the country of residence.

Australian tax resident v non-Australian tax resident

There are a number of different tests that apply to determine Australian tax residency. If your client normally resides in Australia, they will generally be considered an Australian resident for tax purposes. If your client does not normally reside in Australia, then there are further tests that are applied to determine their tax residency status. These are:

- The domicile test – generally, your permanent home is in Australia,
- The 183 day test – you are in Australia for more than half of the financial year,
- The super test – applicable to certain Commonwealth government employees working at Australian posts abroad (such as diplomats and officials of the Department of Foreign Affairs and Trade).

A non-Australian tax resident may be taxed differently, depending on whether a tax treaty exists between Australia and the insured person's country of residence. Without a tax treaty, there is potential for insurance payments to be taxed in both

countries (double taxation). However, if a tax treaty exists, it will generally act to restrict the taxation responsibility to one country only. If the tax treaty states that insurance proceeds are to be taxed under the rules of the country of residence, the client will need to seek international tax advice on how proceeds will be taxed in that country.

Super v non-super ownership

If policies are owned inside a complying Australian superannuation, the tax treatment with respect to the deductibility of premiums and assessment of proceeds to the superannuation fund is not affected by the residency status of the individual life insured. However, the tax treatment applying to any subsequent payment of proceeds from the super fund to the individual will depend on their residency status for tax purposes.

For Australian residents such payments will be taxed according to normal super lump sum or pension rules. Please refer to our 'Tax on lump sum TPD proceeds paid from super', 'Tax on TPD pension payments paid from super', 'Tax on lump sum Term Life proceeds paid from super' and 'Tax on Term Life pension proceeds paid from super' fact sheets for further information.

For non (tax) residents, it will depend on their country of residency, and whether a tax agreement exists between that country and Australia.

For policies owned outside super, the same distinction is required between residents and non-residents for tax purposes. For tax residents please refer to our 'Tax of non-super claim proceeds' fact sheet for further information.

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