



GMS Flash Alert

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Australia - ATO Guidance: Impact of COVID-19 on Taxation of Internationally Mobile Employees

The Australian Taxation Office (ATO) has provided guidance on how it will approach the tax implications for internationally mobile employees and their employers affected by the COVID-19 pandemic.¹

The KPMG Global Mobility team with the KPMG International member firm in Australia has been at the forefront in initiating discussions with the ATO since early February on the tax impact of COVID-19 for businesses and their employees. From the outset, we have highlighted concerns and provided real-time scenarios on the challenges that are facing our clients with a globally mobile workforce.

WHY THIS MATTERS

Many Australians who have been living overseas, over the last few months, have found themselves temporarily back in Australia for various reasons as a result of COVID-19. This movement has further increased in the last week following the advice of the Australian government for all Australian citizens and permanent residents to return. This has created uncertainty for many of those individuals regarding their tax positions and, for their employers, the associated tax and reporting obligations.

Key Details of ATO's Updated Guidance

On Friday, 20 March, the ATO released updated guidance to provide clarity as to how it will approach the tax implications for internationally mobile employees and their employers affected by the COVID-19 pandemic. This guidance forms part of an overall ATO guidance page for tax matters relating to the pandemic.

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We have outlined below the key take-aways from the updated guidance.

Residents Temporarily Overseas

There should not be any change to Australian tax obligations for both employers and employees.

Foreign Residents Temporarily in Australia

Individuals who are in Australia temporarily due to COVID-19 will not become Australian tax residents provided that they:

- usually live overseas permanently; and
- intend to return there as soon as they are able to.

The tax residency issue may be more complicated if:

- the individual ends up staying in Australia for a lengthy period; and/or
- the individual does not plan to return to his country of residency when he is able to do so.

Lengthy stays in Australia may result in a change to residency. However, this should not be an immediate concern for people who are in Australia temporarily.

Earning Employment Income While in Australia Temporarily

For foreign residents temporarily in Australia and continuing to be paid employment income, the ATO has advised as follows:

- Paid leave – not considered Australian sourced and consequently not assessable.
- Working remotely solely as a result of COVID-19 – the ATO accepts that working in Australia for **less than three months** will not result in the individual being assessed for Australian tax. As the situation is constantly evolving, the ATO will further consider this in coming weeks. The three months may potentially be extended further under a double taxation agreement depending on the country where the individual ordinarily resides.

Where the wages are not assessable per the above, employer obligations are as follows:

- STP reporting will not apply;
- Pay-As-You-Go Withholding (PAYGW) will not apply;
- Fringe Benefits Tax will not apply; and
- Superannuation Guarantee – the guidance is currently silent on whether this would be required.

Where an employee remains in Australia beyond the three-month threshold that the ATO specifies in the current guidance, an Australian employer could expect to have to meet the above obligations.

However, a foreign employer would not be required to register and apply PAYGW for an employee working temporarily in Australia as a result of COVID-19, unless it expects the employee to remain in Australia beyond 30 June 2020.

KPMG NOTE

The ATO has acknowledged the issues are complex and will continue to evolve. Consequently it has committed to providing updated and revised guidance as the situation further develops and circumstances change and become clearer.

The ATO is keen to have an open dialogue and better understand the situations that individuals and employers are facing in order to tailor further guidance in the near future. If you or your employees are facing these kind of challenges and need clarity on any of the tax issues arising, please get in touch with the global mobility team with KPMG in Australia to discuss.

Please visit KPMG Australia's dedicated COVID-19 website that has been developed to support our clients with relevant insights and guidance: <https://home.kpmg/au/en/home/insights/2020/03/business-implications-of-covid-19-coronavirus.html> .

FOOTNOTE:

1 More information is available on the ATO [website](#).

Special thanks to [Jackie Shelton](#), [Priscilla Tang](#) and [Terry Hoban](#) for their contributions to this article.

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