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Introduction to Individual Income Tax in Australia

Australian residents for tax purpose (hereinafter referred to as Australia tax resident) who satisfy the residency test stipulated by the Australian tax law, have to declare all worldwide income earned both in Australia and internationally in Australian tax return and pay the tax to the Australian Taxation Office (ATO). The foreign residents for tax purpose (hereinafter referred to as non-Australian tax residents) must declare in Australian tax return any income derived in Australia and pay the tax to the ATO.

The purpose of this article is to briefly introduce the related regulations of Australian individual income tax, including tax year, principle of taxation, types of taxable income, how to identify the Australian tax residents status, tax rate, expense deductions, tax offset, declaration method, declaration period, how to pay (or refund) the tax, and the examples to clarify how the calculation of individual income tax for Australian tax residents who have earned wages and salaries in China, etc..

1. Tax Year

Australian tax year (financial year), is July 1 of the current year to June 30 of the following year. Within a tax year, both Australian tax residents and non-Australian tax residents should report to the ATO in accordance with their corresponding tax obligations.

2. Principle of Taxation

Australia is a high tax country that based on the principle of territoriality and nationality. According to the Australian tax law, all Australian tax residents must report to the ATO regardless of whether their income derives from within or outside Australia. Non-Australian Residents are also required to report income derived from Australia.

3. Types of Taxable Income

Australian tax law stipulated the following types of income the taxpayers need to declare:

- (1) Employment Income. Including the salaries and wages, bonus, dividends, allowances and subsidies and other income related to employment.
- (2) Super Pensions, Annuities and Government Payments
- (3) Investment Income. Including interest, dividend, rent and capital gains.
- (4) Business, Partnership and Trust Income
- (5) Other Income. Including insurance payments, discounted shares under employee share schemes, and prizes and awards.

4. Australian Tax Residents and Non-Australian Tax Residents

In the Australian tax system, the tax obligations, tax benefits and treatments of Australian tax residents and non-Australian tax residents are very different. The tax amount payable of non-Australian residents will be significantly higher than that of Australian tax residents. Therefore, judging whether an individual is an Australian tax resident and the different tax policies that distinguish Australian tax residents from non-Australian tax residents is the most basic and important prerequisite.

(1) Identification of Australian Tax Residents Status

As the ATO required the Australian tax residents declare all worldwide income earned both in Australia and internationally, such as employment income, business income, capital gains and other incomes.

The definition of Australian tax residents defined by Australian government is a concept that difficult to understand clearly, even for the tax experts. Whether it holds Australian nationality or Australian permanent resident status, whether it has a tax file number in Australia, all these factors cannot determine the Australian tax resident status. This means that an individual may be considered as an Australian tax resident even if he does not have Australian nationality or Australian permanent resident status.

The ATO has developed four tests to determine tax residency status, requiring taxpayers to be judged to be Australian tax residents as long as they satisfy any one of these tests. This is the judgment method stipulated by the ATO. In essence, the tax law itself does not clearly define these four test standards.

(1) *Identification of Australian Tax Residents Status – Cont'd*

(a) The Resides Test

The resides test is the most important one. If a taxpayer's "habitual residence" is in Australia, he is considered an Australian tax resident. "Habitual residence" is not clearly defined in tax law. In practice, when assessing whether a taxpayer has a habitual residence, the ATO requires the taxpayer to report all relevant factors to them. The ATO conducts a comprehensive assessment of all relevant factors submitted by the taxpayer and judges whether the taxpayer is Australian tax resident.

Relevant factors in the determination criteria include many items, general including:

- (i) Whether the taxpayer was an Australian tax resident before, would it be harder to give up Australian tax resident status?
- (ii) Whether he has lived in Australia for more than half a year in a tax year.
- (iii) Whether he intends to live in Australia for a long time, whether applied the permanent resident status, whether signed a lease agreement with lease period over than 12 months, whether purchased a real estate?
- (iv) Whether he has an employment relationship in Australia, and as a director or manager in an Australian company?
- (v) Whether the spouse is settled Australia, whether minor children are studying in Australia?
- (vi) Whether they have large assets in Australia, such as opened a bank account in Australia, whether purchase car or insurance, proportion of assets in Australia with worldwide assets.

It should be noted that meeting one or more of the relevant factors in the judgment criteria does not mean that the taxpayer will be judged as an Australian tax resident. The tax authority will comprehensively consider all factors to evaluate the tax resident status of the taxpayer.

(b) The Domicile Test

The domicile test requires that a taxpayer be deemed to be an Australian tax resident if the resident's usual residence (domicile) is in Australia, unless the ATO considers the taxpayer have a permanent place of abode outside Australia. The concepts of domicile and permanent place of abode are not clearly defined in tax law and can only be determined based on actual conditions.

(1) *Identification of Australian Tax Residents Status – Cont'd*

(b) *The Domicile Test—Cont'd*

Generally, the place of domicile can be identified according to three methods:

- (i) Domicile by origin. For example, where you were born.
- (ii) The choice of domicile change. For example, the individuals immigrated from another country to Australia.
- (iii) The place of domicile determined by law. For example, other domicile stipulated by law.

The permanent place of abode outside Australia, is also a concept of case law. Generally, ATO will consider following factors when they judge whether the taxpayers have permanent place of abode outside Australia:

- (i) The time lived overseas, including the time that the taxpayer planned and actually lived overseas and continuity of residence overseas.
- (ii) Whether the taxpayer has habitable permanent residence overseas.
- (iii) Whether the taxpayer has domicile in Australia when he lives overseas and intends to return to Australia.
- (iv) Whether the spouse is settled Australia, whether minor children are studying in Australia?

(c) *The 183-day Test*

The 183-day test is a relatively easy test to determine the Australian tax resident status. It is mainly aimed at determining whether an individual who already resided in Australia is an Australian tax resident.

Taxpayers who have lived in Australia for 183 days (six months) in a tax year (July 1 to June 30), whether continued or discontinued, will be judged to be Australian tax residents, unless it can be established that the "usual place of abode" is outside Australia or the taxpayer "has no intention to reside in Australia permanently".

It can be noted that the usual place of abode in the 183-day test is different from the permanent residence in the resides test. A usual place of abode is a place in which a person adopts his habits and daily behaviour in a country (or region).

For example, a taxpayer who has obtained a 12-month Australian working holiday visa and has a fixed residence outside Australia and the fixed residence has not been rented out while he is in Australia. During his time in Australia, he has visited many cities, and has not lived for more than two months in each city. He has only worked in Australia for 8 months in a tax year and travelled in Australia the rest of the time. The ATO believes that although he has been in Australia for more than 183 days in this case, his "usual place of abode" is outside Australia and does not meet the 183-day test.

(1) ***Identification of Australian Tax Residents Status – Cont'd***

(d) The Commonwealth Superannuation Fund Test

This test only applies to certain Australian Government employees or their relatives who are eligible to contribute to the Public Sector Superannuation Scheme (PSS) or the Commonwealth Superannuation Scheme (CSS). In this is the case, you (and your spouse and children under 16) are considered to be an Australia resident regardless of any other factors.

(2) **Identification of Non-Australian Tax Residents Status**

If an individual does not meet the four tests determined to be an Australian tax resident, but actually has income derived from Australia, in this case, he is judged to be a non-Australian tax resident. He does not need to report and pay taxes on their global income, only need to declare and pay taxes for the income derived from Australia. For non-Australian tax residents, there are no tax exemptions.

(3) **Conversion of Australian Tax Resident and Non-Australian Tax Residents**

The Australian tax year is from July 1 to June 30 of the following year. As the status of Australian tax residents is judged on the basis of the tax year, this means that the tax status of the same person in different tax years may be different.

From a theoretical point of view, if a taxpayer is judged to be an Australian tax resident in a tax year and is judged to be a non-Australian tax resident in the next tax year, he may not need to be declared the taxes with the ATO.

However, from ATO perspective, it is more inclined to rely on the Australian tax resident to determine that it will not be returned to become an Australian resident for a longer period of time after becoming a non-Australian tax resident.

If a taxpayer is judged to be an Australian tax resident in a tax year and is judged to be a non-Australian tax resident in the next tax year, the taxpayer can be changed to non-Australia tax resident and does not need to declare taxes to the ATO in the future tax years only if he does not meet the conditions for becoming an Australian tax resident after it is determined, and submit the final return to the ATO. What needs attention and caution is that the submission of the final return declares that the taxpayer will never again become an Australian tax resident.

Therefore, for some individuals who temporarily leave Australia, although the conditions for Australian tax residents have not been met, they may still be regarded as Australian tax residents for a period of time and still need to submit tax return to the ATO.

5. Tax Rate

According to Australian tax laws, the calculation of Australian individual income tax uses an "Excessive Progressive Tax Rate". There are different individual income tax rates for Australian tax residents and non-Australian tax residents, children and working holiday makers.

(1) Australian Tax Residents Tax Rate

Table 1: Australian Tax Residents Individual Tax Rate 2019/20

Taxable Income (A)	Individual Income Tax Payable	Formula
18,200 – 37,000	19c for each \$1 over \$18,200	$(A-18,200) \times 0.19$
37,001-90,000	\$3,572 plus 32.5c for each \$1 over \$37,000	$[3572+(A-37,000)] \times 0.325$
90,001-180,000	\$20,797 plus 37c for each \$1 over \$90,000	$[20797+(A-90,000)] \times 0.37$
80,000 and over	\$54,097 plus 45c for each \$1 over \$180,000	$[54097+(A-180000)] * 0.45$
<i>Note: The above rates do not include the Medicare levy of 2%</i>		

(2) Non-Australian Tax Residents Tax Rate

Table 2: Non-Australian Tax Residents Individual Income Tax Rate 2019/20

Taxable Income (A)	Individual Income Tax Payable
0-90,000	32.5c for each \$1
90,001-180,000	\$29,250 plus 37c for each \$1 over \$90,000
180,000 and over	\$62,550 plus 45c for each \$1 over \$180,000

5. Tax Rate—Cont'd

(3) Children and Working Holiday Makers Tax Rate

The ATO also stipulated the individual income tax rates applicable to Australian tax residents and non-Australian tax residents, as well as the tax rates applicable to minors under the age of 18 (children) and working holiday makers. For the taxpayers who are children or working holiday makers. Special tax rates (higher rate than an adult) applied to children who receive unearned income (for example investment income).

Table 3: Working Holiday Makers Individual Income Tax Rate 2019/20

Taxable Income (A)	Individual Income Tax Payable
0-37,000	15c for each \$1
37,001-90,000	\$5,550 plus 32.5c for each \$1 over \$37,000
90,001-180,000	\$22,775 plus 37c for each \$1 over \$90,000
180,001 and over	\$56,075 plus 45c for each \$1 over \$180,000

6. Expense Deductions

When a taxpayer completing his tax return, he is entitled to claim deductions for some expenses, including:

- (1) Expenditure for salary income.
- (2) Interest Charged by the ATO.
- (3) Gifts and donations.
- (4) Interest, dividend and other investment income deductions.
- (5) Cost of managing tax affairs. For example, the expense for obtaining tax declaration service from a recognised tax adviser

It can be noted that the premise of claiming deduction of work-related income is that such expenses are directly related to earning of income, the taxpayers must have spent the money themselves and weren't reimbursed. Including:

- (1) Work-related vehicle and travel expenses
- (2) Clothing, laundry and dry-cleaning expense
- (3) Home office expenses (such as rent, property tax and internet expense)
- (4) Self-education expenses (such as purchase books, study expenses, examination expenses)
- (5) Occupation and industry specific deductions

7. Basic Tax Offset

The most basic tax offset in Australia are Low Income Tax Offset (LITO) and Low and Middle Income Tax Offset (LMITO). The taxpayer does not have to do anything to claim the offsets. The ATO will work them out when the taxpayer lodge his tax return. The Table 4 is the offset criteria for LITO and LMITO. It can be noted that:

- (1) Any eligible offset amount can only reduce the tax payable to zero. Any unused offset amount cannot be refunded.
- (2) It cannot reduce the Medicare levy.
- (3) If the taxpayers are under 10 as at 30 June of the income year and have unearned income, these offsets cannot reduce the tax payable on this income.

Table 4: Low, Low and Middle Income to Offset 2019/20

Taxable Income (A)	LITO	LMITO
0-37,000	445	255
37,000-48,000	$445 - (A - 37,000) \times 1.5\%$	$255 + (A - 37,000) \times 0.075$
48,000-90,000	$445 - (A - 37,000) \times 1.5\%$	1,080
90,001 and more	Nil	$1,080 - (A - 90,000) \times 0.003$

Note: ATO will calculate the tax offset automatically, this is only for reference, and the actual amount subject to ATO's calculation

8. Declaration Method

Taxpayers can choose to declare the tax by themselves or can choose a recognised tax agent to declare for themselves. Taxpayers can submit the tax returns through the ATO website or by submitting paper tax returns to ATO.

9. Declaration Period

The taxpayers are required to submit completed tax returns to the ATO or through the ATO website between July 1 and October 31.

10. How to Pay or Refund the Tax

After the taxpayer completes the tax declaration, in addition to the fact that there is no tax payable, there are generally two consequences, pay tax and get tax refund.

There are two ways to pay the tax. Taxpayers can send a cheque to the AOT or pay the tax to ATO directly. There are also two ways for tax refunds. Taxpayers can require ATO to send a cheque to them or transfer the refund to the taxpayer's bank account directly.

11. Example of Calculation of Individual Income Tax

According to Australian tax laws, the calculation of Australian individual income tax uses an "Excessive Progressive Tax Rate". Unless otherwise specified, the calculation examples in this article do not consider deduction items, and only calculate wage income input. In practice, the actual situation shall prevail in the calculation of individual income tax.

12. Individual Income Tax Calculation of Wages and Salaries

(1) Australian Tax Residents

Australia's tax burden on individual income tax payable by taxpayers for wages and salaries due to their employment and employment is significantly higher than in China. According to the agreement between China and Australia to avoid double taxation and to prevent tax evasion, Australian tax residents who earn wages and salaries in China and pay individual income tax in China are allowed to deduct Australian individual income tax payable, and only need to pay the difference in the individual income tax rate. For Australian tax residents who apply for individual income tax offset, they should keep the tax certificate of individual income tax paid abroad for verification.

[Example 1] Tom as an Australian tax resident, worked in China for 7 months in the 2019-2020 tax year and earned a salary of AUD 22,000. Individual income tax has been paid in China of \$ 1,780. Return to work in Australia for the remaining 5 months of the tax year and earn a salary of \$ 20,000. Tom's individual income tax in Australia is calculated as follows:

Step 1:

Total Taxable Income for Tax Year 2019/20	AU\$42,000
Medicare Levy (AU\$42,000 *2%)	AU\$840
Individual Income Tax = (AU\$3572+(42,000-37,000) *0.325)	AU\$5,197
Individual Income Tax Payable	AU\$6,037

Step 2:

Salary Earned in Australia for Tax Year 2019/20	AU\$20,000
Calculation of Individual Income Tax (AU\$20,000-18,200) *0.19)	AU\$342

Step 3:

The upper limit of offset amount is (AU\$6,037 – 342)	AU\$5,695
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12. Individual Income Tax Calculation of Wages and Salaries—Cont'd

(1) Australian Tax Residents-Example 1—Cont'd

Note: The above three steps are used by the ATO to calculate the maximum amount of individual income tax paid outside Australia that can be offset by the amount of individual income tax paid for wages and salaries. If an Australian tax resident has wages and salaries in certain countries with a higher tax burden than Australian and pays individual income tax, the offset amount that can be applied for will be less than the amount of individual income tax that has been paid, that is, the offset amount must not exceed the calculated upper limit. Since AU \$ 5,695 is greater than the tax paid in China of AU \$ 1,780, the tax paid in China can be fully offset.

<i>Total Taxable Income for Tax Year 2019/20</i>		AU\$42,000
<i>Medicare Levy (AU\$42,000*2%)</i>	AU\$840	
<i>LITO (Refers to Table One)</i>	(AU\$370)	
<i>LMITO (Refers to Table One)</i>	(AU\$630)	
<i>Calculation of Individual Income Tax Amount</i>	AU\$5,197	
<i>Total Individual Income Tax Amount</i>		AU\$5,037
<i>IIT Paid in China</i>		(AU\$1,780)
<i>Individual Income Tax Payable</i>		AU\$3,257

(2) Non-Australian Tax Residents

[Example 2] Brifty as a non-Australian tax resident, worked in China for 12 months in the 2019/20 tax year, but had income from Australia AU\$99,000. Brifty only need to pay individual income tax for this part of income, and calculated as follows:

<i>Taxable Income from Australia for Tax Year 2019/20</i>	AU\$99,000
<i>Calculation of Individual Income Tax</i>	AU\$32,580
<i>Individual Income Tax Payable</i>	AU\$32,580

Note: Calculation of individual income tax: $\$29,250 + (\$99,000 - \$90,000) * 0.37 = \$32,580$

Kaizen suggests you consult with professional tax advisors before you act upon the above information. Should you have any questions in relation to the proposals, please feel free to contact our CPAs.

APPENDIX LIST

1. [Australian Residency Test Flowchart](#)

REFERENCE LIST

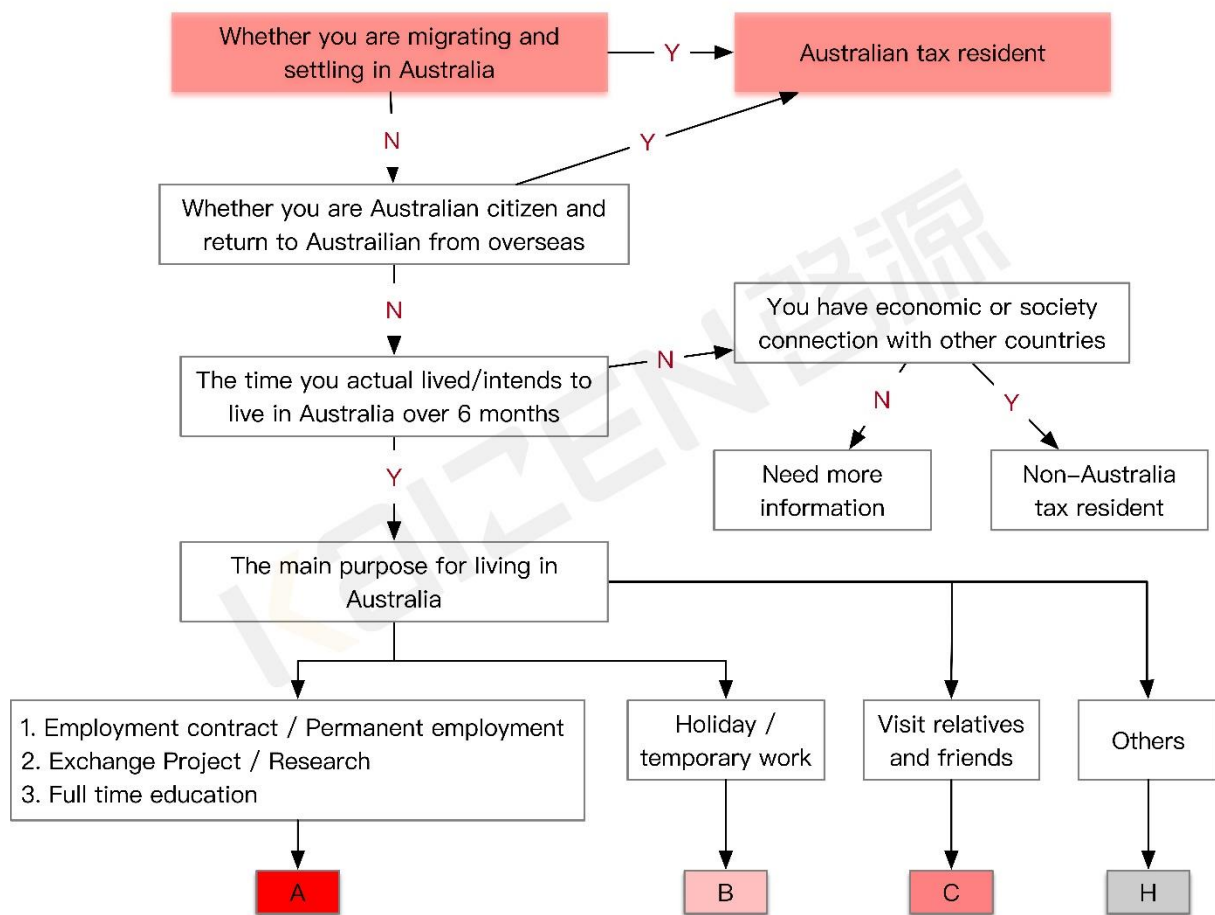
1. [Australia Company Registration Package](#)

DISCLAIMER

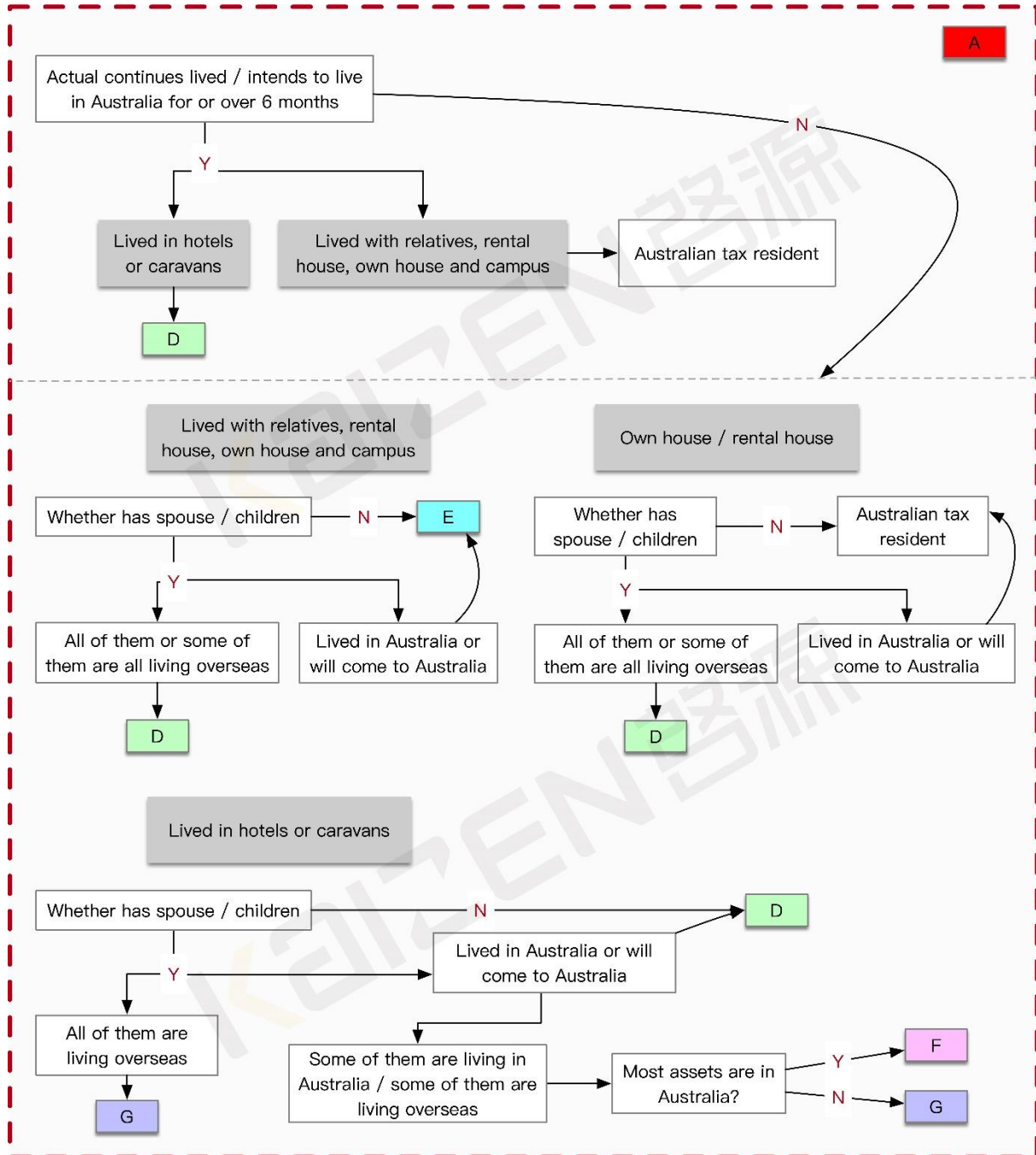
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Appendix 1: Australian Residency Test Flowchart

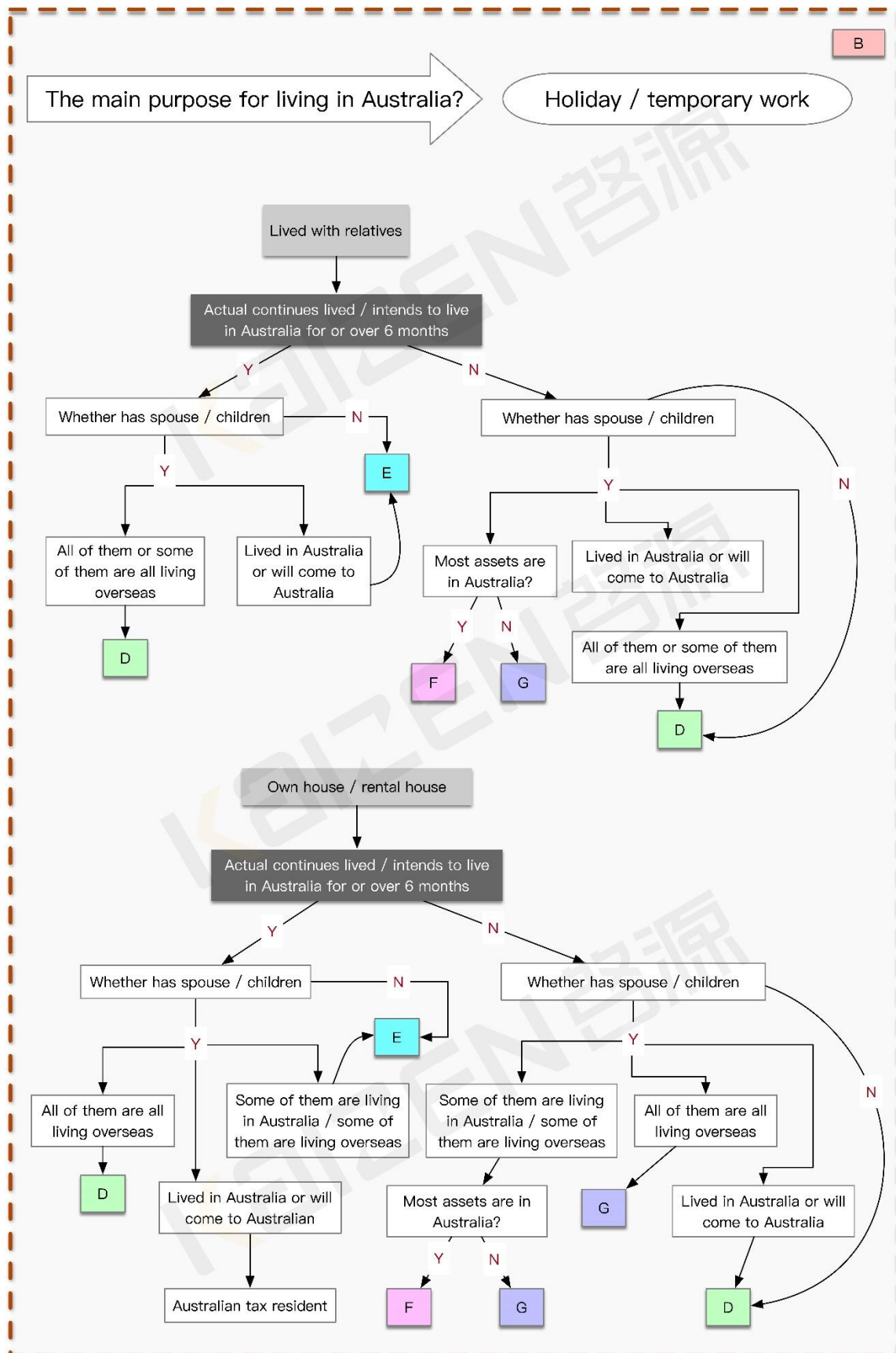
AUSTRALIAN TAX RESIDENT TEST



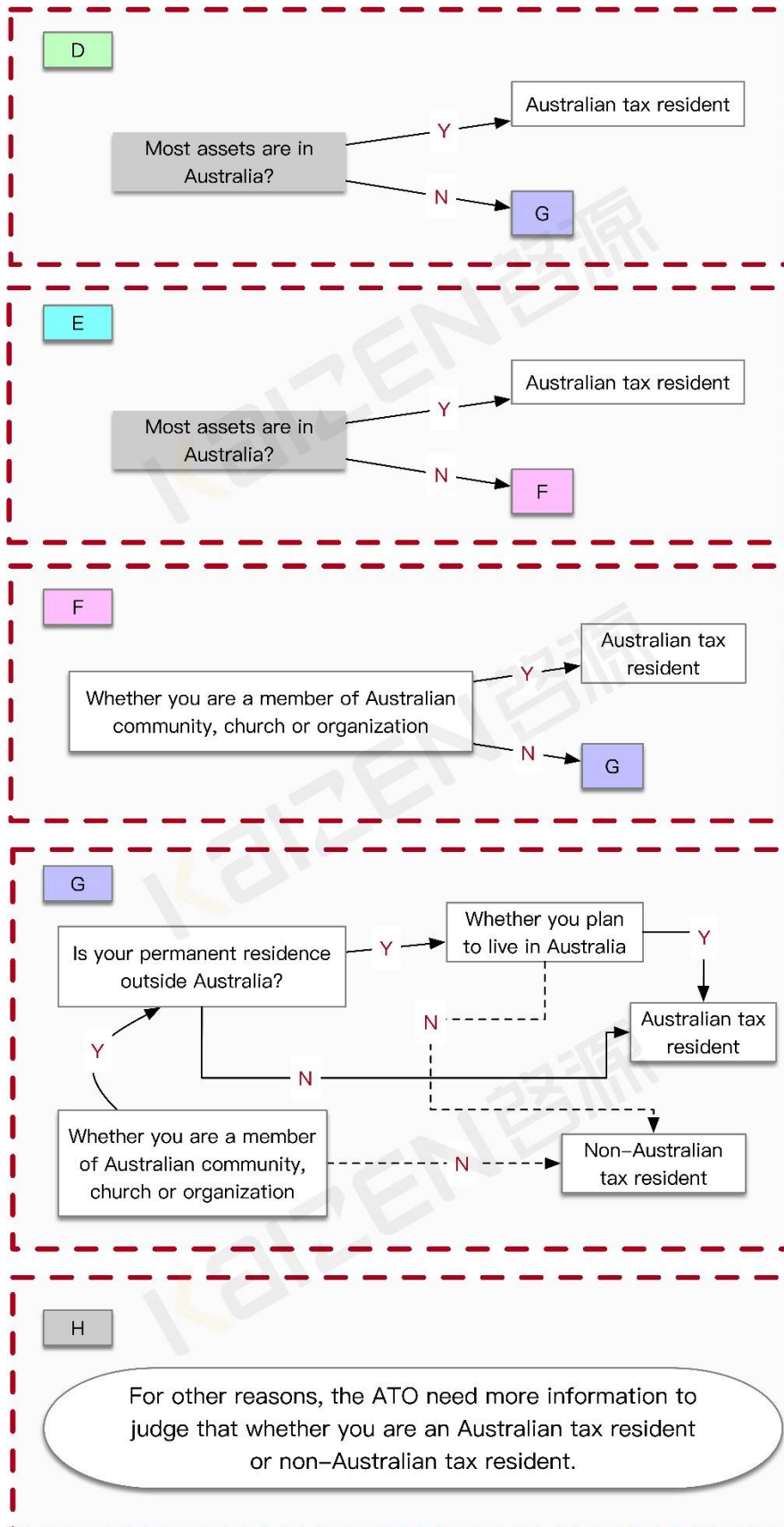
Appendix 1: Australian Residency Test Flowchart –Cont'd



Appendix 1: Australian Residency Test Flowchart –Cont'd



Appendix 1: Australian Residency Test Flowchart –Cont'd



Service Scope

<p>Corporate Service</p> <ul style="list-style-type: none"> ✓ Company Formation & Registration ✓ Bank Account Application ✓ Company Secretary ✓ Registered Office & Business Address ✓ Compliances & Maintenance ✓ Dis-registration & Dissolution 	<p>Accounting & Auditing</p> <ul style="list-style-type: none"> ✓ Financial Advisory ✓ Due Diligence ✓ Accounting & Book-keeping ✓ Statutory Audit ✓ Special Audit 	<p>Taxation</p> <ul style="list-style-type: none"> ✓ Tax Advisory ✓ Tax Planning ✓ Tax Reporting ✓ Tax Compliance ✓ Tax Audit ✓ Transfer Pricing
<p>Visa</p> <ul style="list-style-type: none"> ✓ Work Visa ✓ Business Visa ✓ Investment Visa ✓ Immigration ✓ Post Landing Support 	<p>Personnel</p> <ul style="list-style-type: none"> ✓ Staff Hiring ✓ Labor Displacement ✓ Payroll Processing ✓ Human Resource ✓ Labor Law Advisory 	<p>Intellectual Property</p> <ul style="list-style-type: none"> ✓ Trademark Registration & Renewal ✓ Trademark Infringement ✓ Trademark Watch ✓ Design Registration ✓ Patent Registration ✓ Domain Name Registration

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