

Chapter IV

Basis of Income accounting, Territorial/
Nationality nexus for Income Taxation

Country	(i) Whether on realised income or on accrual basis or on both	(ii) Extent of territorial nexus	(iii) Nationality and/or residential status, whether relevant; if so, to what extent
Australia	<p>As a general rule, assessable income is to be determined on accrual basis. However, some departure from this rule is accepted for particular business activities or types of income, e.g., engineering contracts, interest from investments.</p> <p>If the taxpayer derives business income substantially from his own labour (as a lawyer or doctor practising on his own or with one or two others), he is taxable if and when payment is received.</p>	<p>Australian taxing system is on a territorial basis. Residents are liable to tax on income from worldwide sources, but income derived by residents from sources outside Australia (other than non-wage income from Papua New Guinea) is exempt from Australian tax if income tax is paid in the country of origin.</p> <p>A nonresident of Australia is liable to income tax on income (other than interest and dividends) derived from sources in Australia only.</p> <p>A resident corporation pays income tax on all income,</p>	<p>For tax purposes, residents are defined as individuals domiciled in Australia (unless they can prove their permanent homes are elsewhere) and people who have cumulatively spent more than half the tax year in Australia (unless the Commissioner of Taxation is satisfied that their homes are elsewhere). Expatriates on a two-to-four-year tour of duty are usually taxed as residents.</p> <p>A company incorporated in Australia is a resident of Australia for income tax purposes. A corporation not incorporated in Australia is a resident of Australia if it carries on business in Australia and either its central management and control is in Australia</p>

wherever its source, unless the income is specifically exempt from Australian income tax. A non-resident company is subject to Australian income tax on income derived from sources within Australia only.

or its shareholders who are residents of Australia control its voting power.

Belgium

Taxable income is the income which has been earned during the taxable period.

Residents of Belgium are subject to taxation on their total net income

An individual is a resident if he, his domicile or principal economic interests are in Belgium. Resident individuals are taxed on their worldwide

income from all sources. Non-residents of Belgium are subject to non-resident income tax on their income earned or collected in Belgium. Belgium Tax Administration may grant special tax concessions to non-Belgian executives and employees who "temporarily" work in Belgium. They are, in fact, treated as non-residents for tax

income.

Non-residents are:

- (i) those who, whatever their nationality, have their actual and permanent place of residence in a foreign country;
- (ii) those who have their *domus*, their family, the seat of their business and of their occupation in a foreign country;
- (iii) those who have the seat of their fortune in a foreign country.

Foreign nationals temporarily resident in Belgium enjoy favourable tax status if they qualify as active partners or directors of local or foreign-owned firms in Belgium. Belgium companies and foreign entities that have their head office, main

purposes. establishment or seat of management in Belgium are subject to corporate income tax on business profits earned by them. Companies which do not have their registered office, main establishment or place of management in Belgium are subject to non-resident income tax.

Denmark

Both

A Danish resident corporation, one registered in Denmark, is subject to corporation tax on its worldwide profits, including capital gains.
 A non-resident corporation, carrying on a trade in Denmark through a permanent establishment or entitled to a share of the profits of a permanent establishment, is subject to tax on all income arising through or received from the permanent establishment.
 An individual resident is subject to full tax liability, i.e., tax on income and capital gains on his worldwide income and gains received or

Persons who maintain a domicile in Denmark or who remain in the country for 6 months or more are considered residents and incur full tax liability.
 Under Danish law, a resident individual who moves out of Denmark continues to be considered a Danish resident for upto 4 years after departure, unless he can prove that he is subject to tax as a resident by another State and that the tax imposed in such other State is not clearly more lenient than Denmark's tax.

accrued subject to any foreign tax reliefs. An individual who is not a resident of Denmark is subject to limited tax liability, i.e., tax on income and capital gains received or accrued in relation to an activity exercised in Denmark, subject to any foreign tax relief. The main criteria for full and limited tax liability are residence, length of stay, place of work, employer's residence and type of income.

**Federal Rep.
of Germany**

Accrual basis
{For construction
companies, the
completed-contract
method must be used}.

Resident tax payers are subject to tax on their worldwide income (unlimited tax liability), while non-residents are subject to tax only on certain specified income from German sources (limited tax liability). Foreign residents, whether corporations or individuals, are not subject to German income, corporation and trade income tax on business income unless a permanent

As a general rule customary place of abode, and thus tax residence, is deemed to exist, if the individual's stay in Germany exceeds six months. Once the six-month period has expired, tax residence dates back to the beginning of the period. It is not necessary for the six-month period to be completed within one calendar year.

A company is considered to be resident in Germany if either its place of management or seat of business is located in Germany. A person is considered to be resident in Germany if either his residence or customary place of abode is in Germany.

		establishment is maintained in Germany.	
Indonesia	On both	<p>A resident taxpayer is subject to tax on his total worldwide income.</p> <p>A non-resident is liable to income tax only on his income from Indonesian sources.</p> <p>A resident company is taxed on worldwide income. The taxable income of a non-resident company is the gross amount of income received or derived from Indonesia. The director-general of tax determines the residence status based on "facts and circumstances".</p>	<p>Nationality or citizenship is not considered in the assessment of liability to income tax.</p> <p>The term "resident" is defined as any individual present in Indonesia for more than 183 days in any twelve-month period, or any individual present in Indonesia during a tax year and having the intention to reside in Indonesia.</p> <p>Foreigners who work in Indonesia for 183 days or less without the intention of remaining for a longer period of time are non-resident taxpayers and are subject to a flat 20% tax (withheld at source) on their Indonesian-sourced income.</p> <p>A resident company is one that is registered or domiciled in Indonesia.</p> <p>A nonresident organisation or entity (including companies) means any taxpayer that is not established or domiciled in Indonesia.</p>

Generally, the place where the financial decisions are made or where the management direction of the business originates, is considered the place of domicile.

Japan	On both.	<p>A domestic corporation is taxed on its worldwide income and can claim foreign tax credit.</p> <p>A foreign corporation with a fixed place of business in Japan is subject to Japanese corporate income taxes on its Japanese-source income and cannot claim foreign tax credits.</p> <p>A foreign corporation that does not have a fixed place of business in Japan is also subject to Japanese income taxes on certain items of income.</p>	<p>(1) Non-residents are those foreigners staying in Japan for less than one year, and are taxed according to special rates normally a flat 20% without deductions on income from services in Japan - no matter where it is paid.</p> <p>(2) Nonpermanent residents are those in Japan for more than one year but less than five years and are taxed at normal rates on income from Japanese sources and on income received in Japan from other sources.</p> <p>(3) A resident is an individual who has a Japanese domicile or has his residence in Japan for one year or more. The term "domicile" is defined in the Civil Code as the place in which a person has "the base and centre of his life". Residents pay taxes on total worldwide income.</p>
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A domestic corporation is a corporation having its head office or main office in Japan.

A company incorporated in Japan is a domestic corporation, regardless of the nationality of its shareholders. A corporation other than a domestic corporation is regarded as a foreign corporation.

Korea

The general rule is that the accrual method of accounting must be used by companies. The cash basis may be used by other forms of business organisation if approval is obtained from the tax authorities.

In the case of businesses which are required to instal cash registers, tax is imposed on receipt basis.

Domestic enterprises are taxable on their worldwide income. Foreign companies and their Korean branches are subject to Korean corporation tax only on income derived from sources within Korea.

Korean citizens and individuals considered as residents for tax purposes are subject to Korean income tax on worldwide income. An expatriate who is deemed to be a non-resident is

All individuals in Korea are classified as one of the following for income tax purposes:-

- 1) Citizen:
A Korean national.
- 2) Resident:
A resident is a person who has a domicile in Korea or who has resided in Korea for one year or longer.
- 3) Non-resident:
An individual who is not deemed to be a resident.

If a foreign entity is deemed to have a physical presence (i.e. permanent establishment) in

taxed only on Korean source income and is not subject to the defence surtax. A non-resident is not allowed all of the personal deductions granted to residents.

Korea, that entity is considered to be a "resident taxpayer" and is subject to Korean corporate tax and surtaxes calculated at the same rates as for Korean Corporations.

A domestic corporation is a corporation having its head office or main office in the Republic of Korea.

A foreign corporation is any corporation other than a domestic corporation.

Sri Lanka On both.

A resident person is liable to tax in Sri Lanka on his income arising in Sri Lanka and that outside Sri Lanka.

A non-resident person is liable to tax in Sri Lanka only on his income arising in, or derived from, Sri Lanka.

A resident company is

(a) An individual who stays in Sri Lanka for 183 days or more (in aggregate), is considered resident throughout the year if he is in Sri Lanka on the last day of that year.

(b) If he is not in Sri Lanka on the last day of that year, he is resident from the day of arrival to the last day of departure from Sri Lanka.

(c) An individual deemed to be resident for 2 years will be treated as non-resident only if he is out

liable to tax on its world-wide income. A non-resident is liable to be taxed on profits and income arising in or derived from Sri Lanka.

of Sri Lanka for a continuous period of 12 months. (Visits to Sri Lanka, not exceeding 30 days in aggregate will not prevent him becoming a non-resident).

(d) A non-resident will become resident only if he spends an aggregate of 183 days or more in Sri Lanka during an assessment year.

A company is deemed to be a resident company if it has its registered or principal office in Sri Lanka, or if the control and management of its business are exercised in Sri Lanka. All other companies are nonresident.

U.K.

Both

Resident companies in the U.K.- including the UK subsidiaries of foreign companies - are subject to corporate taxes on world-wide profits, regardless of where they arise.
Non-resident

A company is defined as resident if it is incorporated in the UK or if its "management & control" are in the UK, regardless of where it is incorporated.
Any person who spends six months or longer in the

companies are subject to corporate taxes only on the profits relating to business carried out in the U.K. through a branch or agency and to income tax on any other income arising from UK sources.

UK in the tax year in question will be regarded as resident in the UK for that year.

Normally the profits of a foreign subsidiary of a UK company that are retained in the subsidiary are not taxable in the UK.

Profits of a foreign branch of a UK resident company are subject to corporation tax whether they are repatriated or not.

Earnings by a person normally resident in UK from a job overseas lasting 365 days or more are not subject to taxation in UK.

While generally considered to be domiciled abroad, non-UK nationals in UK who work for UK resident employers are subject to the same tax rules as UK nationals on income earned both within and outside UK.

An individual who is "resident and ordinarily resident and domiciled in UK" (for all practical purposes this excludes non-UK nationals) is subject to full UK tax on all income from foreign and domestic sources whether remitted to UK or left abroad.

Non resident individuals are liable to income tax only on UK source income and are not generally liable to capital gains tax except on UK source gains from assets connected with a trade carried on in UK.

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Income arising from property is deemed to arise in the country in which the property is located, e.g. dividend income is deemed to arise in the place where the share register is maintained. Income from employment is usually regarded as arising in the country where the work is carried out, subject to any provision in a relevant double tax treaty.

U.S.A.

On both. The cash method entails the reporting of income when actually or constructively received, while the accrual method requires the reporting of income when all events have occurred that fix the right to receive such income.

Corporations incorporated in the U.S. are subject to U.S. taxation on their worldwide income, whereas foreign corporations (i.e., non-U.S. corporations) are subject to U.S. tax only on their U.S. source income.

Beginning in 1985, aliens who have entered the U.S. as permanent residents and who have not officially surrendered or lost the right to permanent U.S. residency are taxed as U.S. residents.

Domestic taxpayers including resident alien individuals, are taxable on their worldwide income.

Foreign taxpayers are taxable on income connected with a U.S. business, on certain non-business income from U.S. sources, and on gain realised from the disposition of a U.S. real property interest. Foreign taxpayers are allowed a foreign tax credit only in limited circumstances.

A basic rule in the taxation of foreign corporations is that income connected with a U.S. business of the foreign corporation is taxed separately from income that is not so connected. Business income from U.S. sources, and certain types of foreign source business income, are taxed at the rates applicable to a domestic corporation. U.S. source non-business income is taxed at a flat rate of 30 per cent on gross income, unless

a lower rate
is applicable
under a treaty.
Only certain
classes of
non-business
income are
taxable.