

# Definition of Tax Resident

## Understanding Taiwan's Tax Regulations

An individual's classification as a Taiwan tax resident directly affects income tax filing obligations and applicable tax treatment in Taiwan. Where there is uncertainty regarding an individual's residency status, whether for personal circumstances or employment arrangements, professional advice should be sought.

### Background

Article 7 of the Income Tax Act defines a tax resident as an individual meeting one of the following criteria:

1. A person who has a domicile within the territory of the Republic of China and resides at all times within the territory of the Republic of China;
2. A person who has no domicile within the territory of the Republic of China but resides within the territory of the Republic of China for a period of more than 183 days during a taxable year.

In practice, determining whether an individual has a domicile in Taiwan can be factually complex. Historically, the tax authorities have placed significant weight on household registration records. Where an individual has completed household registration with a local household registration office, the tax authorities have generally regarded the individual as having a domicile in Taiwan.

### Ruling issued on 1 January 2013

In September 2012, the Taxation Administration announced the ruling Tai Tsai Shui No.

10104610410, which is a set of rules to assess whether a person has a domicile in Taiwan. This rule took effect on 1 January 2013.

The rule stated that a person is deemed to have domicile in the Republic of China if one of the following conditions are met:

1. The person has registered a household in the R.O.C. and resided in the country for more than 31 days in a fiscal year.
2. The person has registered a household in the country and resided in Taiwan for more than 1 day in a fiscal year, and the person's principal place of living and carrying out economic activities is in the R.O.C.

In determining whether the individual's principal place of living and carrying out economic activities is in the R.O.C., the following questions, among others, are taken into account:

1. Does the person enjoy Taiwan's statutory benefits program (National Health Insurance, Labor Insurance, Labor Pension Fund)?
2. Does the person have a spouse or child living in Taiwan?
3. Does the person manage a business or have employment in Taiwan?

Whether a person falls within the definition of tax resident will affect the person's tax filing status in Taiwan. Given the highly fact-specific nature of residency determinations, individuals and employers are advised to consult professional tax advisors when evaluating Taiwan tax residency status.

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