

So apparently its tax return time here in Australia and we need to know what income tax actually is. The first question the tax office ask is what is your assessable taxable income. Your answer will be nil, nada, zilch, nothing. I know, I know, this can't be true. Lets look at what assessable income is according to the Income Tax Assessment Act 1997. An important thing to remember here is that ONLY those things after the word "includes" is what is included in the statement and to the exclusion of everything else. The Income Tax Assessment Act 1997 sect 4.1 states who must pay income tax and provides the following statement: Income Tax is payable by each individual and company, and by some other entities.

Note: The actual amount of income tax payable may be nil. In an attempt to fully appreciate who indeed is liable for income tax we need to comprehend the definitions of the words used in the legislation. The legislation itself provides the definitions to all words and the meaning to the underlined words above in sect 4.1 as provided by the legislation is as follows: 1 - "Income Tax" means income tax imposed by any of these: (a) the Income Tax Act 1986 (b) the Income Tax (Diverted Income) Act 1981 (c) the Income Tax (Former Complying Superannuation Funds) Act 1994 (d) the Income Tax (Former Non-resident Superannuation Funds) Act 1994 (e) the Income Tax (Fund Contributions) Act 1989 2 - "Individual" means a natural person 3 - "Company" means: (a) a body corporate or (b) any other unincorporated association or body of persons

So with the definition of the words as provided by the legislation we are then able to determine that the word "person" has the same meaning as the word "individual" and the same meaning as the word "personal" As stated in the legislation the word "person" and the word "personal" have the following meanings: (a) "person" includes a partnership, a company and a person in the capacity of trustee of a trust estate. (b) "person" includes a company The final definition required for Sect 4.1 is for the word "entity" We found the definition for the word entity in the Income Tax Assessment Act 1997 Sect 9.1. Sect 9.1 of the act provides a table for the type of entity that is liable to pay income tax and the table provided the following two examples: 1 - An "individual" 2 - A company, that is (a) a body corporate (b) an unincorporated body (except a partnership)

So with full comprehension of the meaning of the words in the Income Tax Assessment Act 1997 Sect 4.1 we are able to determine that the following statements can be the only true facts. The Income Tax Assessment Act 1997 Sect 4.1 is stating that income tax is payable by an "Individual" where the meaning of the word "Individual" is a "person". A "person" includes a partnership, a company and a person in the capacity of trustee of a trust estate. Income tax is also payable by other "entities" which are known as "individuals" and as we have already clearly pointed out, an "individual" is a "person and a "person" is a "company" Income Tax Assessment Act 1997 Sect 6.15 states what is not assessable income.

What is not assessable income. (1) If an amount is not ordinary income and is not statutory income it is not assessable income (so you do not have to pay income tax on it). (2) If an amount is exempt income it is not assessable income. It is very clear and it cannot be mistaken by the statements in Sect 6.15 that if an assessable income amount is not ordinary income and is not statutory income and if an amount is exempt income then it is NOT an assessable income. Income Tax Assessment Act 1997 Sect 6.5 states the following facts: (1) Your assessable income includes income according to ordinary concepts, which is called ordinary income. (2) If you are an Australian resident, your

assessable income includes the ordinary income you derived directly or indirectly from all sources, whether in or out of Australia, during the income year.

Once again the definition of the words in the above statements, as provided by the legislation definitions is where we get the true facts about the two previous statements. We find that there are two very important words in Sect 6.5 of the Income Tax Assessment Act 1997 and those are the words "Australian resident" and "Australia". Once again the legislation itself provides the following definition for the words "Australian resident". "Australian resident" means a "person" who is a resident of "Australia" for the purposes of the Income Tax Assessment Act 1936. The definition of the word "Australia" can be found in the Income Tax Assessment Act Sect 960.505 and states the following:

Meaning of Australia Territories (1) "Australia", when used in a geographical sense, includes each of the following: (a) Norfolk Island; (b) the Coral Sea Territories; (c) the Territory of Ashmore and Cartier Islands; (d) the Territory of Christmas Island; (e) the Territory of Cocos (Keeling) Islands; (f) the Territory of Heard Island and the McDonald Islands. So in summary of Sections 6.5 the only true factual statement that can be given using the definitions as provided by the legislation is the following; An Australian resident is a person and as the definition as provided by the legislation states, a person is a company. Section 960.505 states that when Australia is used in a geographical sense it includes only the islands and territories listed in a, b, c, d, e and f in the list above.

As Australia is indeed a land mass and cannot be known as anything other than a land mass we can determine that Australia can only be used in a geographical sense as per the definition provided in Sect 960.505 of the Income Tax Assessment Act 1936 and thus Australia can only be known as the following; (a) Norfolk Island; (b) the Coral Sea Territories; (c) the Territory of Ashmore and Cartier Islands; (d) the Territory of Christmas Island; (e) the Territory of Cocos (Keeling) Islands; (f) the Territory of Heard Island and the McDonald Islands.

When one fully comprehends the definitions of the words used in the legislation provided in the Income Tax Assessment Act 1997 it is very clear and can be of no doubt as to the facts to who is liable for income tax in Australia. The ONLY entities or persons liable for income tax under the Income Tax Assessment Act 1997 would be a company with an assessable income derived from the list of islands and territories as listed in the Income Tax Assessment Act 1997 Sect 960.505.

So there you have it straight from the tax office, no man or woman in Australia has an assessable taxable income so the answer to the first question from the tax office is, I do not have an assessable income. To state anything else would be fraud as no one I know derives their primary income from Norfolk Island. So why are you paying income tax in Australia?

[http://classic.austlii.edu.au/au/legis/cth/consol\\_act/itaa1997240/](http://classic.austlii.edu.au/au/legis/cth/consol_act/itaa1997240/) Just follow the rules as set out by the tax office