

# Australian Tax Residency Tests: Simplified Flow Chart

## The Legislation: ITAA 1936

An “Australian resident” means a person who is a resident of Australia for the purposes of the ITAA 1936. A “resident of Australia” is defined in s 6(1) of the ITAA 1936 to mean:

- (a) a person, other than a company, who **resides in Australia** and includes a person:
  - (i) whose **domicile is in Australia**, unless the Commissioner is satisfied that the person's **permanent place of abode** is outside Australia;
  - (ii) who has actually been in Australia, continuously or intermittently, during more than one half of the year of income, unless the Commissioner is satisfied that the person's **usual place of abode** is outside Australia and that the person does not intend to take up residence in Australia; or
  - (iii) who is:
    - (A) a member of the superannuation scheme established by deed under the Superannuation Act 1990; or
    - (B) an eligible employee for the purposes of the Superannuation Act 1976; or
    - (C) the spouse, or a child under 16, of a person covered by sub-subparagraph (A) or (B);

