Inland Revenue
Te Tari Taake

EXPOSURE DRAFT - FOR COMMENT AND DISCUSSION ONLY | HUKIHUKI HURANGA - MŌ TE TĀKUPU ME TE MATAPAKI ANAKE

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QUESTIONS WE'VE BEEN ASKED | PĀTAI KUA UIA MAI

Can an Active Investor Plus visa holder become tax resident under the permanent place of abode test?

Issued | Tukuna: Issue date

QB XX/XX

There have been some questions and uncertainty raised around the potential for Active Investor Plus visa holders to trigger New Zealand tax residence. We have been asked, in particular, whether an Active Investor Plus visa holder buying a residential property in New Zealand and staying there when in New Zealand during the investment period (and beyond) may result in the person having a permanent place of abode in New Zealand and so being tax resident here. This "question we've been asked" (QWBA) provides guidance on how the Commissioner sees the permanent place of abode test applying in various AIP visa scenarios.

Key provisions | Whakaratonga tāpua

Income Tax Act 2007 – ss HR 8 and YD 1

Question | Pātai

Can an Active Investor Plus (AIP) visa holder become tax resident under the permanent place of abode test?

Answer | Whakautu

Yes, an AIP visa holder can potentially become tax resident under the permanent place of abode test.

A person must have a place of abode (a dwelling) in New Zealand to potentially have a permanent place of abode here. But simply having a dwelling is not sufficient to meet the test.

A dwelling will be a permanent place of abode for a person if it is a place where they habitually reside from time to time, on an enduring rather than temporary basis, even if they spend periods overseas. The person does not need to intend to live somewhere for the rest of their life for it to be a permanent place of abode for them.

The permanent place of abode test requires an overall assessment of the person's circumstances and the nature and quality of the use the person habitually makes of a place of abode. It is necessary to consider:

- **the length of the person's presences in New Zealand and whether they are here continuously or otherwise; and**
- **the durability of the person's association with their place of abode in New Zealand, which involves examining the extent and strength of the attachments the person has established and maintained in New Zealand and with their place of abode here.**

Importantly in the context of AIP visa holders, a person can be tax resident in New Zealand under the permanent place of abode test even if they also have a permanent place of abode outside New Zealand. The focus is not on determining which place of abode the person has the strongest connections to, but rather on determining whether their place of abode in New Zealand is a permanent place of abode.

Explanation | Whakamāramatanga

Background

1. We have been asked about the potential for AIP visa holders to trigger New Zealand tax residence. In particular, whether an AIP visa holder buying a residential property in New Zealand and staying there when in New Zealand during the investment period (and beyond) may result in the person having a permanent place of abode in New Zealand and so being tax resident here.

2. This QWBA provides guidance on how the Commissioner sees the permanent place of abode test applying in various AIP visa scenarios.

3. This QWBA discusses the tax residence and transitional resident rules at a high level. It should be read in conjunction with IS 25/16: **Tax residence**,[1] which discusses the rules in more detail.

The AIP visa category

4. AIP visas are residence class visas, enabling the visa holder to live, work, invest and study in New Zealand. The principal applicant for an AIP visa can include their partner and dependent children in the application. After the expiry of the relevant investment period, if Immigration New Zealand (INZ) is satisfied that the applicant has complied with the conditions, the person can apply for a permanent resident visa.

5. The objective of the AIP visa category is to increase the flow of foreign capital and attract skilled and experienced active investors into areas that align with the New Zealand Government's economic strategy, by providing resident visas to those who wish to participate in New Zealand's investment ecosystem and make a significant contribution to New Zealand's economy.

6. There are two subcategories of AIP visas – the **Growth Category** and the **Balanced Category**. The conditions for these categories are set out in the INZ Operational Manual (the Operational Manual).[2] Table | Tūtohi 1 sets out the key requirements or conditions for each category that are potentially relevant for tax residence purposes.

[1] IS 25/16: Tax residence *Tax Information Bulletin* Vol 37, No 6 (July 2025): 22.

[2] Immigration New Zealand Operational Manual (webpage, Immigration New Zealand, as updated 1 June 2026): see BN9.1.5 and BN9.1.10, respectively.

Table | Tūtohi 1: Requirements for Growth and Balanced Categories that have potential relevance for tax residence purposes

Requirement	Growth Category	Balanced Category
Minimum investment[3]	$5 million	$10 million
Investment term	36 months (3 years)	60 months (5 years)
Physical presence in New Zealand	A minimum of **21 days** over the investment period	A minimum of **105 days** over the investment period, unless eligible for a reduction (see [7])

7. Under BN10.15.1 of the INZ Operational Manual, principal applicants within the Balanced Category may be eligible for a reduction in the physical presence requirements (up to a maximum reduction of 42 days) if they invest additional funds in direct investments or managed funds deemed acceptable Growth Category investments by Invest NZ.

Relevance of tax residence

8. The concept of tax residence is a central feature of the Income Tax Act 2007 and the Goods and Services Tax Act 1985.

9. The main relevance of tax residence for income tax purposes is that it determines whether a person is assessable for tax on worldwide income or only on New Zealand–sourced income.

10. New Zealand tax residents are assessable on worldwide income,[4] though their liability may be modified if they are tax resident in more than one country and there is a double tax agreement (DTA) in place between the countries. They may be entitled to a credit for foreign tax paid on foreign-sourced income or gains. Tax non-residents are assessable on only New Zealand-sourced income.

[3] There are rules as to which kinds of investments will be considered acceptable for each category.

[4] Other than exempt income and excluded income.

Becoming tax resident in New Zealand

11. Under s YD 1, an individual (natural person) can become tax resident in New Zealand either by:

- having been present in New Zealand for more than 183 days in total in any 12-month period (**the 183-day rule**) (see from [25]); or
- having a "permanent place of abode" in New Zealand, even if they also have a permanent place of abode elsewhere (**the permanent place of abode test**) (see from [29]).

Implications of AIP visa holders becoming dual tax resident

12. An AIP visa holder may potentially become dual tax resident, because they become tax resident in New Zealand under either the 183-day rule or the permanent place of abode test and remain tax resident in another country.

13. If this is the case and there is a DTA between New Zealand and the other country in which the person is tax resident, a series of "tie-breaker" tests is applied to allocate tax residence to one of the countries for the purposes of the DTA. That allocated tax residence is then relevant to what taxing rights each of the countries has in relation to matters covered by the DTA. If both countries have some right to tax a particular item of income or gain that a person has, the person may be entitled to a credit for foreign tax paid on foreign-sourced income or gains.

14. If the person is dual tax resident and there is no DTA between New Zealand and the other country in which they are tax resident, they are assessable in New Zealand on their worldwide income[5] but may be entitled to a credit for foreign tax paid on foreign-sourced income or gains.

15. While New Zealand's DTA network and foreign tax regime may alleviate many concerns about dual tax residence, becoming tax resident under New Zealand domestic law may trigger the start date for New Zealand's transitional resident rules.

16. Understanding the circumstances in which an AIP visa holder may potentially become tax resident in New Zealand (in particular under the permanent place of abode test) gives taxpayers and their advisors more certainty about when they may need to consider any potential for a change in their New Zealand tax residence status and if

[5] Other than exempt income and excluded income.

necessary consider whether to opt out of the transitional resident rules (leaving them open to potentially having the benefit of those rules in the future).[6]

The transitional resident rules

17. People who become tax resident in New Zealand for the first time (and returning New Zealanders who have been tax non-resident for at least 10 years) may be eligible to be transitional residents.

18. The transitional resident rules[7] provide a temporary tax exemption for foreign-sourced income.[8] They also ensure that certain other provisions in the Act apply to produce a result for income tax purposes that is the same as if the transitional resident were non-resident (for example the controlled foreign company rules, the foreign investment fund rules, the financial arrangements rules, the trust rules and the non-resident withholding tax rules).

19. The transitional residence period lasts for approximately 4 years, but the period is variable because of the rules around the start and end dates.

20. Broadly, a person will qualify as a transitional resident if they:

- are tax resident in New Zealand under either the 183-day rule or the permanent place of abode test;
- have been tax non-resident for at least 10 years immediately before that;
- have not previously been a transitional resident;
- have not ceased to be a transitional resident (through opting out or because the transitional residence period has expired).

21. The transitional residence period starts on the first day the person is tax resident in New Zealand under domestic law (ie, under either the permanent place of abode test or the 183-day rule). It is **not relevant** whether a person's tax residence tie-breaks under a DTA to another jurisdiction.

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[6] If a person qualifies to be a transitional resident in an income year but does not want to use the once-off exemption yet, they can choose not to use it by opting out of the exemption from the date they qualify. They must tell Inland Revenue this by the time they are required to file their tax return for the year they qualify. To use the exemption in the future, they must meet the criteria to qualify again. For example, they will need to be tax non-resident for a 10-year period before becoming resident again.

[7] Section HR 8.

[8] Other than employment income in connection with employment or service performed while the person is a transitional resident and income from a supply of services.

22. A person who would otherwise be a transitional resident in an income year may choose not to be a transitional resident on and after a date they nominate, which can be a date on or after the start of the income year. This must be done by giving notice to the Commissioner.[9]

When might an AIP visa holder become tax resident in New Zealand?

23. As noted at [11], an individual can become tax resident in New Zealand either under the 183-day rule or under the permanent place of abode test.

24. These tests for becoming tax resident in New Zealand are summarised at a high level below. As noted at [3], this QWBA should be read in conjunction with IS 25/16, which discusses the rules in more detail.

The 183-day rule

25. An individual is a tax resident in New Zealand if they have been present in New Zealand for more than 183 days in total in any 12-month period. Tax residence will be triggered if the rule is satisfied in respect of any (rolling) 12-month period.

26. If a person is tax resident under the 183-day rule, they are treated as resident from the first of the 183 days, unless they acquired a permanent place of abode in New Zealand earlier, in which case they are resident from that date.

27. Being present in New Zealand for 183 or fewer days in a subsequent 12-month period will not result in the person losing New Zealand tax residence. Once a person has become tax resident in New Zealand, they remain tax resident until they have been absent from New Zealand for more than 325 days in a 12-month period and no longer have a permanent place of abode here.

28. For both the 183-day and 325-day rules, a part-day of presence in New Zealand counts as a full day of presence and does not count at all towards days of absence.

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[9] In addition, note that transitional residents cannot receive Working for Families tax credits (including Best Start) and maintain their transitional residence status. And the spouse or partner of a transitional resident cannot receive Working for Families tax credits. If a person who is eligible to be a transitional resident applies for Working for Families tax credits (including Best Start), that application is treated as an election for both the person and their spouse or partner to not be transitional residents. This deemed election cannot be reversed. This is unlikely to be relevant to AIP visa holders now that Best Start is means tested (as other Working for Families tax credits are). However, it could be relevant in some circumstances, in particular for the first year of Best Start for a child born before 1 April 2026.

The permanent place of abode test

29. The 183-day rule can be readily managed by AIP visa holders and their advisors. The uncertainty around when an AIP visa holder may potentially become tax resident in New Zealand is really around the permanent place of abode test. In particular, whether the person having residential property in New Zealand and staying there when in New Zealand during the investment period (and beyond) will give rise to a permanent place of abode.

30. The key aspects of the permanent place of abode test (particularly as likely relevant to AIP visa holders) are explained below. As noted, this QWBA gives a high-level summary of the test and relevant considerations only and it should be read in conjunction with IS 25/16.

31. A person must have a place of abode (ie, a dwelling) in New Zealand to potentially have a permanent place of abode here.[10] But simply having a dwelling is not sufficient to meet the test.

32. A place of abode (dwelling) will be a permanent place of abode for a person if it is a place where they **habitually reside from time to time, on an enduring rather than temporary basis, even if they spend periods overseas**.

33. The person does not need to intend to live somewhere for the rest of their life for it to be a permanent place of abode for them.

34. Importantly in the context of AIP visa holders, a person can be tax resident in New Zealand under the permanent place of abode test **even if they also have a permanent place of abode outside New Zealand**. A person may have permanent places of abode in more than one country and move between those countries. The focus is **not** on determining which place the person has the strongest connections to, but rather on determining whether their place of abode in New Zealand is a permanent place of abode. A person may be tax resident in New Zealand under the permanent place of abode test even if they have closer connections with a place of abode in another country.

35. Deciding whether a dwelling is someone's permanent place of abode requires an **overall assessment** of the person's circumstances and the nature and quality of the use the person habitually makes of the dwelling. The question is whether, having regard to the overall picture, there is a place of abode in New Zealand where the

[10] The dwelling does not need to be owned by the person – for example, it could be rented, held in a family trust, or owned by a family company or another family member.

person habitually resides, such that it can be regarded as a permanent place of abode for them.

36. It is necessary to consider:

- the continuity and duration of the person's presence in New Zealand; and
- the durability of the person's association with their place of abode in New Zealand.

Continuity and duration of presence in New Zealand

37. The duration of presence factor focuses on the length of the person's presence or presences in New Zealand. The continuity of presence factor refers to whether the person is present in New Zealand for continuous or interrupted periods.

38. As a general rule, the longer a person is present in New Zealand, the more likely it is that their place of abode here is a permanent place of abode for them. Conversely, the longer a person is absent from New Zealand, the less likely it is that their place of abode here will continue to be a permanent place of abode for them.

39. There is no specific length of presence in, or absence from, New Zealand that results in a person acquiring or losing a permanent place of abode here.

40. The more continuous the periods a person spends in New Zealand, the stronger the indication that their place of abode here is their permanent place of abode.

Durability of the person's association with their place of abode in New Zealand

41. Considering the durability of a person's association with their place of abode in New Zealand involves examining the extent and strength of the attachments the person has established and maintained in New Zealand. These factors may indicate whether the place of abode is a place where the person habitually resides, even though they are away for a time. The following factors are relevant:

- The nature and quality of the use of the dwelling and the person's connection with the dwelling.
- The person's intentions.
- The person's family and social ties.
- The person's employment, business interests and economic ties.
- The person's personal property.

- Any other factors that shed light on whether the place of abode is a permanent place of abode for the person.

The nature and quality of the use of the dwelling and the person's connection with the dwelling

42. Someone who lives overseas and buys a house in New Zealand would not have a permanent place of abode here merely by virtue of that, even if they intended to live there in the future.

43. That said, there are circumstances where a house someone has in New Zealand may become a permanent place of abode for the person either at some stage before they move here permanently or even if they do not ever move here to live all the time. For example, if they started coming to New Zealand and residing in the house at regular intervals or for significant enough periods, it may become their permanent place of abode at some stage, even if they also have a permanent place of abode in another country. As noted at [34], the permanent place of abode test is not about comparing the relative strength of a person's connections with different places of abode, if they have more than one place of abode.

44. This is the case regardless of how the person classifies the time. For example, someone simply categorising their time at an abode in New Zealand as "holidays" does not necessarily mean the person does not habitually reside at the abode here on a permanent basis. For example, someone who spent many months of the year, each year, at their "holiday home" in New Zealand may well habitually reside there such that it would be considered their permanent place of abode, regardless of their description of the abode as a "holiday home" or their time here as "holidays".

45. That said, the nature and quality of the use of the abode is important, and someone habitually coming to New Zealand for holidays of shorter duration (eg, for a few weeks over Christmas) would not have a permanent place of abode in New Zealand simply on account of those regular, habitual visits. Such visits would not amount to habitually abiding at the abode in question on a permanent as opposed to temporary basis.

46. It is always necessary to consider the circumstances as a whole. This includes the continuity and duration of the person's presences in New Zealand, the nature of the person's visits to New Zealand and the reasons for them; what occurs over time (that is, the pattern over several years); and all the other relevant factors and connections mentioned at [41].

Intention

47. A person's intentions about their presence in or absence from New Zealand and about a place of abode they have here are important, though not the central consideration.

48. A person's intentions are subjective. However, the weight to be given to a person's stated intentions depends on the extent to which the circumstances support those stated intentions.

49. It is important to balance consideration of a person's intentions with all other relevant factors. And it is necessary to consider not only what was intended, but what in fact occurred.

Family and social ties

50. The location of a person's family may be a factor of some importance. Again, however, family ties must be considered in relation to all the other relevant factors.

51. The weight to be attached to family ties may vary from individual to individual, and in light of the nature and quality of the relationships.

52. Other social ties, such as club memberships, may also be relevant in determining whether a person's place of abode here is somewhere they habitually reside. Such ties are not necessarily of much weight by themselves, but may suggest the person will be returning to New Zealand to live in their abode here on a more than temporary basis.

Employment, business interests and economic ties

53. A person's employment, business, trade or professional ties or other economic ties with New Zealand may be relevant to the extent they indicate the person habitually resides in their place of abode here on a more than temporary basis (or is likely to or intends to return to live in their place of abode here).

54. As Table | Tūtohi 1 sets out, AIP visa conditions require significant minimum investments in New Zealand. These investments will be relevant considerations, but should be viewed in the context of the visa requirements. Active investments and active participation in New Zealand businesses, governance or commercial affairs would be of more weight than passive investments. And investments over and above the minimum requirements for the visa, and/or beyond the investment period would be expected to assume more importance as part of the weighing of the overall circumstances.

Personal property

55. A person having personal property (for example, furniture or a vehicle) in New Zealand, would be taken into account to the extent it indicates they habitually reside in their place of abode here on a more than temporary basis (or are likely to or intend to return to live in their abode here).

56. The weight to be given to the fact a person has personal property in New Zealand depends on the nature of the property and the person's circumstances. An AIP visa holder retaining personal property in New Zealand, including items such as a vehicle, boat or recreational equipment, should be viewed in the context of their overall circumstances and resources.

Other factors

57. Other factors, such as whether the person regularly spends their holidays in New Zealand, may also be relevant, but again, only to the extent that they indicate the person habitually resides in their place of abode here on a more than temporary basis (or is likely to or intends to return to live in their place of abode here).

58. As noted at [4], AIP visas are residence class visas, and provide a pathway to permanent residence. Having an AIP visa would therefore be a factor to consider in the overall assessment of whether a person has a permanent place of abode in New Zealand. Having an AIP visa would carry more weight than having a visa of another class, such as a visitor visa, which has limits on the period for which a person can stay in New Zealand and which does not provide a pathway to permanent residence.

59. Similarly, beyond the investment period, if the person has complied with the AIP visa conditions and applies for and is granted permanent residence, this would be a factor to consider as part of the overall assessment.

60. That said, visa category and residence status aside, the question ultimately comes back to whether there is a place of abode in New Zealand where the person habitually resides from time to time, on an enduring rather than temporary basis, even if they also spend periods overseas.

61. There is no exhaustive list of factors to be taken into account. Any factor showing a person has a durable connection to their place of abode in New Zealand may be relevant, as it may help to indicate whether they habitually reside there, such that it can be regarded as a permanent place of abode.

Timing of acquiring a permanent place of abode

62. A person can become resident under the permanent place of abode test from a time before the first day of their presence in New Zealand under the 183-day rule. This may be particularly relevant in the case of someone with places of abode in more than one country who moves between them (as opposed to someone moving to New Zealand permanently, where it is more likely that tax residence will be triggered by the 183-day rule). Where a person acquires a permanent place of abode in New Zealand before the date they would become tax resident under the 183-day test, the timing of them acquiring a permanent place of abode in New Zealand needs to be determined, as their New Zealand tax residence will start from that point.

63. The time at which a person acquires a permanent place of abode is determined by an evaluation of the circumstances of each case. Often a change of circumstances will be indicative of a person having acquired a permanent place of abode in New Zealand (for example, commencement of employment, business, or appointment to some other role or position; transfer of financial affairs; or a change in the location of the person's family). However, there may not be such an identifiable change of circumstances in a situation where a permanent place of abode arises for a person through establishment of a pattern of habitually residing in an abode here on an enduring rather than temporary basis, while the person continues to also reside in another abode or abodes elsewhere.

64. There may be situations where a person acquires an abode in New Zealand intending from the outset to reside there for significant periods each year and does so. In that situation, it would be expected that they would be regarded as habitually residing there on an enduring basis from an earlier time than had they not intended that from the outset but that is what eventuated. There is no specific timeframe over which a pattern of habitually residing in an abode on an enduring basis is assessed. All of the circumstances need to be considered.

65. In addition, as noted at [39], there is no specific length of presence in New Zealand that results in a person acquiring a permanent place of abode here. There is no bright-line in terms of the amount of time spent at an abode in New Zealand (or the number of years over which this occurs) to establish a permanent place of abode in New Zealand. The test requires an **overall assessment** of the person's circumstances and the nature and quality of the use the person habitually makes of the dwelling.

Record keeping

66. It is recommended that taxpayers keep any relevant documentary evidence that may assist in determining whether (and if so when) New Zealand tax residence is

established. This may include records of days spent in New Zealand (and where); the purpose of visits to New Zealand; the location of immediate family (eg, spouse and dependent children); the use and occupancy by the person and their immediate family of any dwellings in New Zealand; other family and social ties in New Zealand, the location and nature of financial, business and other economic interests and of personal property.

67. Departure and arrival dates can be obtained from Immigration New Zealand. Search for "request my information" on immigration.govt.nz.

Examples | Tauira

68. The following examples focus only on the permanent place of abode test. They do not consider the 183-day rule or whether the person's tax residence may "tie-break" to another jurisdiction under any applicable DTA (though the possible DTA tie-break result is touched on briefly, where relevant).

69. The examples consider the permanent place of abode test in respect only of the AIP visa investment period, but it should be noted that the test may be triggered at some point beyond the investment period if residential property is retained and used by the person beyond that period.

70. These examples should be considered alongside the discussion of the permanent place of abode test and the DTA tie-breaker tests (and associated examples) in IS 25/16.

71. Examples are not intended to establish or indicate any 'bright-line' thresholds. As stated in "About this document" on page 24, it is important to note that a general similarity between a taxpayer's circumstances and an example in a QWBA will not necessarily lead to the same tax result. Each case must be considered on its own facts.

Example | Tauira 1 – No permanent place of abode: use of a dwelling in New Zealand but on a temporary rather than enduring basis

Facts:
Arjun obtains a Growth Category AIP visa and buys an apartment in Auckland. He spends 25 days a year in New Zealand over the 3-year investment period, staying in the apartment during those visits. The apartment is otherwise managed by a property manager and occasionally rented short-term. Arjun's spouse and children live in India, where he operates his main business. He intends to continue living primarily in India.

Conclusion:
Arjun does not have a permanent place of abode in New Zealand. He stays at the apartment for only a short time each year; he does not habitually reside there on an enduring basis. In addition, none of the factors relevant to considering the durability of association with the place of abode indicate it is a permanent place of abode for Arjun.

Example | Tauira 2 – No permanent place of abode: insufficient durability of association with place of abode and use of it on a temporary rather than enduring basis

Facts:
Mei obtains a Growth Category AIP visa and buys a house in Nelson. She spends around 60 days in New Zealand each year over the 3-year investment period, spread across several trips of 2–3 weeks each, always staying at the house. She keeps personal belongings there and does not rent it out. Her family remains in Singapore.

Conclusion:
Mei does not have a permanent place of abode in New Zealand. She stays at the house for temporary periods a number of times each year; she does not habitually reside there on an enduring basis. Mei keeping some personal belongings at the house and not renting it out does not indicate sufficient durability of association with the house for it to be a permanent place of abode for her.

Alternative facts:
Even if Mei's spouse and children joined her on some or all of her trips to New Zealand, Mei would not have a permanent place of abode here. The trips here are for temporary periods and not sufficient to establish that Mei habitually resides at the New Zealand house on an enduring basis.

Example | Tauira 3 – No permanent place of abode: insufficient durability of association with place of abode and use of it on a temporary rather than enduring basis

Facts:
Hiro obtains a Balanced Category AIP visa. Shortly after obtaining the visa, Hiro purchases a house in Queenstown. The house is fully furnished and is available exclusively for his use. Over the 5-year investment period, Hiro spends the minimum

required 105 days in New Zealand, with his visits typically lasting 1–2 weeks at a time and spread evenly across each year.

Whenever Hiro is in New Zealand, he stays at the Queenstown house. He keeps some personal belongings there, including clothing, golf clubs and ski equipment. The property is not rented to third parties.

Hiro's spouse and children remain in Japan, where he continues to run his primary business. Most of his personal and financial affairs remain based in Japan, and he does not intend to relocate permanently to New Zealand.

Conclusion:
Hiro does not have a permanent place of abode in New Zealand. While he stays at the house a few times each year over a 5-year period he does not habitually reside there on an enduring basis. Hiro keeping some personal belongings at the house and not renting it out does not indicate sufficient durability of association with the house for it to be a permanent place of abode for him.

Example | Tauira 4 – Permanent place of abode established from the time of family relocation, as this changes the nature and quality of the habitual use of the property

Facts:
James holds a Balanced Category AIP visa and purchases a house in Wellington. He spends around 90 days each year in New Zealand over the 5-year investment period, staying at the house. At the end of the first year, his spouse and children move to New Zealand and live in the house full time. James continues to travel frequently for business but stays at the house when in New Zealand.

Conclusion:
The house is a permanent place of abode for James from the time his family moves there at the end of the first year. While James stayed in the house for 80–90 days in the first year, he did not have sufficient durability of association with the house in that year for it to be a permanent place of abode for him, nor had he yet established a pattern of habitually residing there on an enduring basis. While the permanent place of abode test needs to be considered on an individual basis, James's family moving to live in the house full time changes the nature and quality of James's use of the dwelling. It has become the family home, and James will habitually reside there more than temporarily over the remaining 4-year period.

[Note: If there is a DTA between New Zealand and another country where James is tax resident, James's residence status for DTA purposes may well tie-break to New Zealand from the time he has a permanent place of abode here. Even if he continues to have a permanent home available to him in the other country, his personal and economic relations (centre of vital interests) would potentially be closer with New Zealand from the time he acquires a permanent place of abode here, as his family are living here. But more facts would need to be known to determine this.]

Example | Tauira 5 – Permanent place of abode as family home in New Zealand and intention to live here permanently; minimal presence in New Zealand in early years due to wrapping up overseas affairs

Facts:
David holds a Growth Category AIP visa. He owns a house in Tauranga, where his spouse and children live permanently. David intends to join them once various business affairs are wrapped up and will apply for permanent residence visas for himself and his family once he is able to (ie, after the AIP visa period comes to an end, with the conditions having been satisfied). David attends to wrapping up those business affairs in the first 2 years of the 3-year investment period. This requires significant travel. When not required to travel, David comes to New Zealand and stays at the Tauranga house. David spends around 30 days per year in New Zealand in those years, usually for periods of around 5 days at a time. He keeps most of his personal belongings in New Zealand.

Conclusion:
The house is a permanent place of abode for David. While the permanent place of abode test needs to be considered on an individual basis, David's family living permanently in the house, him wrapping up overseas business affairs so he can join his family, and his intention to apply for permanent residence visas for himself and his family once they are able to are factors that indicate a durable association with the house such that it is a permanent place of abode for David. While he habitually resides there for only short periods in each of the first 2 years, his absences are solely because he needs to travel to wrap up his overseas business affairs as part of the family's move to New Zealand.

[Note: If there is a DTA between New Zealand and another country where David is tax resident, David's residence status for DTA purposes may well tie-break to New Zealand from the time he has a permanent place of abode here. Even if he continues to have a permanent home available to him in the other country, his personal and economic relations (centre of vital interests) would potentially be closer with New Zealand from the time he acquires a permanent place of abode here, as his family are living here and intend to apply for permanent residence visas and remain here.]

Alternative facts:
If David's spouse and children did not live at the house in Tauranga but remained overseas, with the family intending to move to the Tauranga house once David wrapped up his overseas business affairs, David would not have a permanent place of abode here.

Example | Tauira 6 – No permanent place of abode: significant presence in New Zealand in one year but no established pattern of habitually residing in the dwelling on an enduring basis

Facts:
Sofia spends around 150 days in New Zealand in the first year that she holds a Balanced Category AIP visa and she lives in her Auckland house during those periods. She then takes up full-time employment in the United States and comes to New Zealand for short holidays (around 1 week each time) in each of the remaining 4 years of the investment period. The Auckland house is retained, and Sofia stays there for those holidays. It is otherwise managed by a property manager and rented short-term.

Conclusion:
Sofia does not have a permanent place of abode in New Zealand. While she spends around 5 months of the first year in New Zealand, she has not yet established a pattern of habitually residing there on an enduring basis and does not have sufficient durability of association with the house in that year for it to be a permanent place of abode. After Sofia takes up full-time employment in the United States, her trips to New Zealand are temporary only.

Example | Tauira 7 – Permanent place of abode established from the time of family relocation and intention to live here permanently

Facts:
Carlos obtains a Balanced Category AIP visa. During the first 4 years of the 5-year investment term, he spends minimal time in New Zealand (20 days in total), staying in hotels when visiting. He does not have a dwelling available to him in New Zealand during this period. His wife and children live in Chile, where he continues to run his primary business.

In the 5th year, Carlos decides to move to New Zealand permanently and the family will apply for permanent residence visas once they are able to (ie, after the AIP visa period comes to an end, with the conditions having been satisfied). He purchases a house in Auckland and relocates his family to New Zealand shortly afterwards. Carlos begins staying at the house whenever he is in New Zealand and moves personal belongings there. To meet the visa conditions, Carlos spends approximately 85 days in New Zealand in the final year of the investment term.

Conclusion:
The house is a permanent place of abode for Carlos from the time his family moves to the house he has purchased here. Carlos has decided to move to New Zealand permanently and has bought a home, which has become the family home. In the periods he is in New Zealand from that point, he is residing in the house on a more than temporary basis, as it is the family home and he lives in New Zealand indefinitely once he obtains a permanent residence visa.

[Note: Under the New Zealand–Chile DTA, Carlos' residence status for DTA purposes may well tie-break to New Zealand from the time he has a permanent place of abode here. Even if he continues to have a permanent home available to him in Chile, his personal and economic relations (centre of vital interests) would potentially be closer with New Zealand from the time he acquires a permanent place of abode here, as his family are living here and intend to apply for permanent residence visas and remain here.]

Example | Tauira 8 – No permanent place of abode: significant presence in New Zealand in one year but no established pattern of habitually residing in the dwelling on an enduring basis and insufficient durability of association with place of abode

Facts:
Priya obtains a Balanced Category AIP visa. During the first 4 years of the 5-year investment term, she spends minimal time in New Zealand (5 days in total), staying in hotels. Her spouse and children remain in the United Kingdom, where she continues to operate her primary business.

In the 5th year, Priya purchases a house in Auckland. She is considering moving to New Zealand in the future but does not make firm arrangements for relocation. The house is furnished but is not used consistently, though it is occasionally used by friends holidaying in New Zealand.

To meet the visa conditions, Priya has to spend 100 days in New Zealand in the final year. She ends up spending 120 days here that year, most of them being in the last

6 months of the investment period. During those visits, she alternates between staying at the Auckland house and staying in hotels, depending on the length of time she is staying and whether she is in Auckland or another part of the country. Her spouse and children do not relocate to New Zealand, and she retains her primary home, business operations, and most personal belongings in the United Kingdom.

Conclusion:
Priya does not have a permanent place of abode in New Zealand. While she spends around 4 months of the final year of the investment period in New Zealand, she has not established a pattern of habitually residing in her house here on an enduring basis and does not have sufficient durability of association with the house for it to be a permanent place of abode. The outcome would not change if, all other facts being the same, Priya had purchased the house at the outset of the investment period and stayed there during all her trips to New Zealand during the period.

Example | Tauira 9 – Permanent place of abode: significant presence at place of abode in New Zealand

Facts:
Elena obtains a Balanced Category investor visa. She purchases a house in Auckland shortly after being granted the visa. The house is fully furnished and available exclusively for her use. Elena spends around 110–130 days in New Zealand each year. Her visits are regular and often extended, with some stays lasting several months. Whenever she is in New Zealand, she stays at the Auckland house. She keeps most of her personal belongings there and treats it as her primary base while in the country. Over time, Elena establishes significant connections in New Zealand. She becomes actively involved in local business investments and participates in community and social groups.

Conclusion:
The house is a permanent place of abode for Elena from the time it is apparent she is residing there for substantial periods on an ongoing rather than temporary basis. Once there is a pattern of Elena spending approximately 4 months each year staying at the house in New Zealand over numerous years, that is enough on its own to indicate she is residing in her place of abode here on an enduring rather than temporary, basis. Her establishing significant active business investments and social connections here further bolsters the conclusion her place of abode is a permanent place of abode. It does not matter whether Elena also maintains a place of abode overseas and lives there when not in New Zealand. A person with a permanent place of abode in New Zealand will be tax resident here irrespective of whether they also have a permanent

place of abode in another country. If a person has more than one permanent place of abode, the test is not concerned with determining which one the person has stronger connections to.

[Note: If there is a DTA between New Zealand and another country where Elena is tax resident, more facts would need to be known to determine where Elena's residence status for DTA purposes would tie-break to.]

Example | Tauira 10 – No permanent place of abode: adult children in New Zealand, but insufficient durability of association with place of abode and use of it on temporary rather than enduring basis

Facts:
Maria and Luis obtain Growth Category AIP visas. Their two adult children move to Auckland to attend university, so Maria and Luis buy a house in Auckland where their adult children live.

Over the 3-year investment period, Maria and Luis come to New Zealand for approximately 30–40 days each year, usually visiting during university breaks to maximise the time they can spend time with their children. Their visits are typically for 1–2 weeks. When in New Zealand, they stay in the Auckland house. They maintain their primary home, business interests, and personal assets in Chile. They return to Chile between visits and do not make firm plans to relocate permanently to New Zealand.

Conclusion:
Maria and Luis do not have a permanent place of abode in New Zealand. They stay at the house for short, temporary periods a number of times each year; they do not habitually reside there on an enduring basis. Maria and Luis have family ties in New Zealand, with their adult children living here. However, the permanent place of abode test needs to be considered on an individual basis. The nature and quality of Maria and Luis's use of the dwelling is as a temporary abode. The fact that their children live in the house does not alter that, particularly as the children are adults living independently (albeit with some financial support from Maria and Luis).

Example | Tauira 11 – No permanent place of abode: children at boarding school in New Zealand, but insufficient durability of association with place of abode and use of it on a temporary rather than enduring basis

Facts:
Daniel and Julia obtain Growth Category AIP visas.

They send their two teenage children to New Zealand to attend boarding school in Christchurch. Daniel and Julia buy a house in Christchurch. The house is fully furnished and available exclusively for the family's use. It is not rented to third parties. Daniel and Julia spend approximately 6 weeks each year in New Zealand over the 3-year investment period. They time their visits to coincide with school holidays, and the children stay at the house with them when they are here.

Conclusion:
Daniel and Julia do not have a permanent place of abode in New Zealand. They stay at the house for temporary periods a number of times each year; they do not habitually reside there on an enduring basis. The fact they keep some personal belongings at the house and do not rent it out does not indicate sufficient durability of association with the house for it to be a permanent place of abode for them. While Daniel and Julia have family ties in New Zealand, because their children are at boarding school here, that does not, of itself, establish a permanent place of abode. This is the case even though the children are minors and stay at the house with Daniel and Julia during their school holiday visits.

Example | Tauira 12 – No permanent place of abode: intention to move to New Zealand in the future, but insufficient durability of association with place of abode and use of it on a temporary rather than enduring basis

Facts:
Brad and his wife Nicole intend to move to New Zealand in a few years, once their children have started university in the United States, where they currently live. They obtain Growth Category AIP visas and buy a house in Queenstown where they plan to move eventually.

The house is fully furnished and is available exclusively for the family's use. Over the 3-year investment period, the family use the house as a holiday home, staying there for approximately 2 months over the US summer break. The property is not rented to third parties.

The family keeps some personal belongings at the house, including golf clubs, ski equipment, and two vehicles so the family have transportation for the various activities they enjoy while here. Brad is a member of a country club in the region, which has an exclusive golf course, and the family members all have ski passes.

Conclusion:
Brad, Nicole and their children do not have a permanent place of abode in New Zealand. They use the house as a holiday home for a limited period of approximately 2 months over the US summer break; they do not habitually reside there on an enduring basis. The family keeping some personal belongings at the house and not renting it out does not indicate sufficient durability of association with the house for it to be a permanent place of abode for any of them. Brad being a member of the country club and the family having ski passes may indicate the family members have some community and social connections. But those factors are not themselves of much weight in the circumstances as none of the family members habitually reside at the house on an enduring basis, but rather use it for relatively short holidays only.

Example | Tauira 13 – Permanent place of abode: significant presence at place of abode in New Zealand

Facts:
Jerry and Olivia are a retired couple who hold Balanced Category AIP visas. They purchase a high-value property in Queenstown, which is fully furnished, available exclusively for their use, and not rented to third parties. They keep personal belongings at the property, including a vehicle, a boat, jet skis and golf equipment.

Over the 5-year investment period, Jerry and Olivia establish a consistent pattern of spending approximately 4 months in New Zealand each year over the European winter, typically arriving in December and departing in April. When in New Zealand, they stay exclusively at the Queenstown property.

Jerry and Olivia are members of a local golf club and have a regular circle of friends they socialise with each summer.

Their primary home, their adult children and grandchildren, and the vast majority of their financial assets and personal affairs remain based in Switzerland. Their investments in New Zealand are the Queenstown property and the investments required under the AIP visa settings. They have no intention of relocating permanently or engaging in business activities in New Zealand.

Conclusion:

The Queenstown property is a permanent place of abode for Jerry and Olivia. They have a consistent pattern of spending approximately 4 months each year in New Zealand, residing exclusively in their Queenstown property during those periods. Their use of the property is regular, predictable and sustained over multiple years, and goes beyond occasional or sporadic visits. The length of time they reside in their house here each year is long enough that there is no question they habitually reside there on an enduring rather than temporary basis. As such, the house is a permanent place of abode for them.

While not critical to this conclusion, given the extent that Jerry and Olivia reside in their property here, them having personal property at the house, membership at a local golf club, and a regular social network are factors that are consistent with and further support the conclusion.

All of the circumstances would need to be considered to establish the point from which Jerry and Olivia would be considered to habitually reside at their New Zealand abode on an enduring basis, including their intended use of the property from the outset, when they started staying at the property for significant periods each year, and any change in their intentions or in other circumstances over time.

Although Jerry and Olivia retain their primary home, family ties, and the vast majority of their economic interests in Switzerland, a person with a permanent place of abode in New Zealand will be tax resident here irrespective of whether they also have a permanent place of abode overseas. The focus is not on determining which place the person has the strongest connections to. A person may be tax resident in New Zealand under the permanent place of abode test even if they have closer connections with a place of abode in another country. A person may have permanent places of abode in more than one country and move between those countries, with no intention of relocating permanently.

[Note: Under the New Zealand–Switzerland DTA, Jerry and Olivia's residence status for DTA purposes may well tie-break to Switzerland from the time they have a permanent place of abode here. They have a permanent home available to them in both New Zealand and Switzerland, but their personal and economic relations (centre of vital interests) would potentially be closer with Switzerland, as their adult children and grandchildren, along with the vast majority of their financial assets and personal affairs, are in Switzerland.]

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In draft form these items may not be relied on by taxation officers, taxpayers, or practitioners. Only finalised items represent authoritative statements by Inland Revenue of its stance on the particular issues covered.

Send feedback to | Tukuna mai ngā whakahokinga kōrero ki public.consultation@ird.govt.nz

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