Inland Revenue
Te Tari Taake

TECHNICAL DECISION SUMMARY > PRIVATE RULING

WHAKARĀPOPOTO WHAKATAU HANGARAU > WHAKATAUNGA TŪMATAITI

Holiday property and tax residence

Decision date | Rā o te Whakatau: 11 August 2026

Issue date | Rā Tuku: 18 November 2026

TDS 26/22

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This document is a summary of the original technical decision so it may not contain all the facts or assumptions relevant to that decision.

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Subjects | Kaupapa

This item summarises a private ruling that considered whether a taxpayer who intended to acquire and use a New Zealand holiday property while holding an Active Investor Plus visa would have had a permanent place of abode in New Zealand. Section YD 1(2) of the Income Tax Act 2007 provides that a person is a New Zealand resident if they have a permanent place of abode in New Zealand, even if they also have a permanent place of abode elsewhere.

Taxation laws | Ture tāke

All legislative references are to the Income Tax Act 2007 unless stated otherwise.

Summary of facts | Whakarāpopoto o Meka

1. The Taxpayer was an overseas tax resident who had never been a New Zealand resident or tax resident. The Taxpayer lived with their family overseas and maintained homes outside New Zealand, and their principal personal and family connections were overseas.
2. The Taxpayer intended to apply for an Active Investor Plus visa (Visa) under the Growth Category and invest NZ$5 million in New Zealand in managed funds and direct investments for a period of 36 months.
3. After obtaining the Visa, the Taxpayer intended to acquire and develop a New Zealand residential property for use as a holiday home (NZ Property). The Taxpayer's spouse also intended to acquire a nearby property primarily to accommodate visiting friends and family (Guest Property). Both properties would have been available for the Taxpayer's use.
4. The Taxpayer intended to spend between 2 and 8 weeks in New Zealand in any 12-month period and, in any event, no more than 9 weeks in any 12-month period. That time would generally be divided between two visits each year. The Taxpayer and their family intended to stay at the NZ Property during those visits.
5. The Taxpayer had limited connections with New Zealand. The Taxpayer had no family living in New Zealand, intended to hold only passive investments here, and may have opened New Zealand bank accounts for use while visiting.
6. The Taxpayer also intended to seek New Zealand permanent residence after the Visa term expired.

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Issues | Take

7. The main issue that the Tax Counsel Office (TCO) considered in this ruling was whether the Taxpayer's ownership and use of the NZ Property, and access to the Guest Property, during the term of the Visa would have constituted a permanent place of abode in New Zealand under s YD 1(2).

Decisions | Whakatau

8. TCO decided that neither the NZ Property nor the Guest Property would have constituted a permanent place of abode in New Zealand for the Taxpayer under s YD 1(2).

9. That conclusion was subject to three conditions:

   - The Taxpayer and their family continued to habitually reside outside New Zealand.
   - The Taxpayer continued to hold their investments and economic interests predominantly outside New Zealand, apart from the Visa investment, the NZ Property and the Guest Property.
   - The Taxpayer and their family did not spend more than 9 weeks in New Zealand in any 12-month period.

Reasons for decisions | Pūnga o ngā whakatau

Issue | Take: Permanent place of abode in New Zealand

Relevant legal principles

10. Section YD 1(2) provides that a natural person is a New Zealand resident if they have a permanent place of abode in New Zealand, even if they also have a permanent place of abode elsewhere. TCO applied the approach established in *CIR v Diamond* and confirmed in *Van Uden v CIR*, under which the existence of a permanent place of abode is determined through an integrated factual assessment of the nature and quality of the use the taxpayer habitually makes of a place of abode.[1] Relevant factors include the continuity and duration of the person's presence in New Zealand, the

[1] *CIR v Diamond* [2015] NZCA 613; *Van Uden v CIR* [2018] NZCA 487.

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durability of their association with the property, their family and social connections, their economic interests, their intentions and their personal property connections.

Continuity and duration of presence

11. TCO considered that the Taxpayer's intended use of the NZ Property and Guest Property was temporary and limited rather than habitual and enduring. The Taxpayer intended to spend only short periods in New Zealand, generally over two visits each year, and no more than 9 weeks in any 12-month period. TCO considered this pattern of use was transient and inconsistent with habitual residence at either of the properties on a more than temporary basis.

Nature and use of the properties

12. Although both properties would have been available for the Taxpayer's use, TCO considered that availability alone was insufficient to establish a permanent place of abode. The Taxpayer intended to use the NZ Property as a holiday home and to use the Guest Property primarily to accommodate visiting family and friends. TCO considered that the nature and intended use of the properties did not indicate that the Taxpayer would habitually reside there on a more than temporary basis.

Family, social and economic connections

13. TCO also placed weight on the Taxpayer's continuing connections outside New Zealand. The Taxpayer and their family habitually resided overseas (and would continue to do so for the foreseeable future), had no family living in New Zealand, maintained only limited social connections in New Zealand, and retained the majority of their investments, economic interests and personal property outside New Zealand. While the Taxpayer intended to make a substantial investment in New Zealand as a condition of the Visa, TCO considered that the investment did not indicate that the Taxpayer would habitually reside in New Zealand on a more than temporary basis.

Future intention to seek permanent residence

14. TCO considered that the Taxpayer's intention to seek New Zealand permanent residence in the future did not alter the analysis. There was no evidence of arrangements for a permanent relocation to New Zealand during the ruling period. There was also no indication that the Taxpayer had any intention to move to New Zealand permanently after gaining permanent residence. In any event, an intention to

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live in New Zealand at some future time would not be sufficient to establish a present permanent place of abode.

Conclusion

15. Having weighed all relevant factors, TCO concluded that the Taxpayer's connections with the NZ Property, the Guest Property and New Zealand were not sufficiently durable to establish a permanent place of abode in New Zealand. Accordingly, neither the NZ Property nor the Guest Property would have constituted a permanent place of abode for the Taxpayer under s YD 1(2), subject to the three conditions summarised at [9].

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