

# DOING BUSINESS IN AUSTRALIA

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**[BUSINESS ACCOUNTANTS]**

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# DEMOGRAPHICS

The population of Australia is approximately 22 million. There are six states and two territories. The capital city is Canberra which is located in the Australian Capital Territory and the largest city is Sydney in the state of New South Wales. The main cities and their population size are:

Sydney	4.3 million
Melbourne	3.8 million
Brisbane	1.9 million
Perth	1.6 million
Adelaide	1.2 million
Hobart	0.2 million
Darwin	0.1 million



Australia has an area of 7,617,930 sq km. It is the 6<sup>th</sup> largest country after Russia, Canada, China, USA & Brazil.



Australia area vs. Europe



Australia area vs. USA

# ECONOMICS

The currency used in Australia is the Australian Dollar. The Australian Securities Exchange is the 9<sup>th</sup> largest in the world. Australia's GDP is \$799 billion (17<sup>th</sup> in the world). The per capita GDP (\$36,918) is slightly higher than the UK, Germany and France in terms of purchasing power parity.

Australia is one of the world's largest exporters of wool and meat, and a major source of gold, wheat, iron ore, coal, rice, sugar & cotton. Major imports are cars, aircrafts, manufacturing equipment & computer hardware.

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Australia's largest export market is Japan accounting for \$50.6 billion, followed by China (\$32.5 billion), Republic of Korea (\$18.5 billion) and India (\$13.5 billion).

China is Australia's largest two-way trading partner (imports & exports), followed by Japan, the USA, New Zealand and the Republic of Korea. Australia has free trade agreements with New Zealand, Singapore, Thailand & the USA.

## **REGULATORY AUTHORITIES**

The main regulatory authorities in Australia are:

### **Australian Securities & Investments Commission (ASIC)**

ASIC is the regulator of registered companies in Australia, including local & foreign. It administers the Corporations Act, the law regulating incorporation, operations and management of companies.

### **Australian Taxation Office (ATO)**

The ATO administers income tax, pay as you go (PAYG) withholding & instalments, goods & services tax (GST), fringe benefits tax (FBT), excise duty, superannuation and the Australian Business Number (ABN). It conducts random audits to verify assessments.

### **Australian Competition & Consumer Commission (ACCC)**

Established to administer the Trade Practices Act 1974 (Cth) and the Prices Surveillance Act 1983 (Cth). It promotes competition and fair trade in the market to benefit consumers, business and the community.

There are also many other regulators at the State & Territory levels.

## **TYPES OF FOREIGN BUSINESS STRUCTURES**

Types of business structures available in Australia are sole traders, partnerships, joint ventures, trusts or companies. Most existing businesses looking to expand into Australia choose to operate as foreign subsidiary or a foreign branch.

### **A Subsidiary Company**

A subsidiary is a separate legal entity that has to be registered with the Australian Securities & Investments Commission (ASIC) and is given an Australian Company Number (ACN). It may be a public or private entity. The subsidiary if private must have at least one director residing in Australia. If it is a public subsidiary then it must have at least three directors and one secretary, with two directors and one secretary residing in Australia.

The subsidiary is a resident for all Australian tax purposes and will be taxed on all world-wide income, wherever sourced from. If the entity is trading it must obtain an Australian Business Number (ABN).

Liabilities remain with the subsidiary in the absence of guarantees and like arrangements or unless the subsidiary trades while insolvent. Rules will specify whether related company loans are treated as debt or equity for tax purposes. Thin capitalisation rules restrict deductibility of interest on loans - generally debt

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funding cannot exceed 75% of the value of Australian assets (less certain liabilities).

The company must lodge annual returns and usually financial reports with ASIC unless relieved from doing so under the Corporations Act.

There is no minimum capital requirement for a subsidiary of a foreign company.

## **A Branch Office**

This type of company is not a separate legal entity. A foreign company is registered with ASIC as a Recognised Foreign Corporation and given an Australian Registered Business Number (ARBN).

A branch is taxed on all Australian-sourced income at the company tax rate and if the entity is trading it must obtain an ABN. Liabilities remain with the foreign company.

The foreign company must lodge its financial reports, unless relieved from doing so under the Corporations Act generally, or on application. The branch must appoint a local agent who is a resident of Australia and authorised to accept on behalf of the foreign company, service of notices.

There are also restrictions and reporting requirements which apply to dealings between branch and head office.

## **TAXATION**

Majority of Australia's taxation system is split between two levels of government.

The Federal government controls income tax, Goods & Services Tax (GST), Fringe Benefits Tax (FBT), Capital Gains Tax (CGT) and also levies tariffs on a number of imported items. Federal taxes are administered by the Australian Taxation Office (ATO).

The State governments variously impose a larger number of taxes such as land tax, payroll tax, stamp duty and motor vehicle registration duty.

### **Income Tax**

The Australian tax/income year ends on 30 June. A Substituted Accounting Period (SAP) may be adopted on approval from the ATO. The company income tax rate is 30%.

Current personal income tax rates are

\$0 to \$6,000 NIL

\$6,001 to \$37,000 15%

\$37,001 to \$80,000 30%

\$80,001 to \$180,000 37%

\$180,001 and over 45%

A Medicare Levy of 1.5% is paid by most resident taxpayers to cover certain health care costs

## **Goods & Services Tax (GST)**

GST is a broad-based consumption tax charged at a rate of 10% on the sale of most goods and services in Australia (similar to VAT in other countries).

An entity is required to register for GST if its turnover is \$75,000 or above per year. The entity may voluntarily register if their turnover is below the threshold of \$75,000. If you are registered you must charge GST on all sales.

You are required to lodge Business Activity Statements (BAS) on a monthly/quarterly basis to report your GST collections & payments.

## **PAYG Withholding from Salaries & Wages**

If an entity will have employees then it will need to register for PAYG withholding. This is the tax to be withheld from employees' gross wages. The wages and PAYG figures will need to be reported on the BAS when the GST is reported.

## **Fringe Benefits Tax (FBT)**

A fringe benefit is a benefit provided in respect of employment. For example:

- allowing an employee to use a work car for private purposes
- giving an employee a low interest loan
- paying an employee gym membership
- reimbursing an expense incurred by an employee, such as school fees
- benefits under a salary sacrifice arrangement

If any such benefits are provided to employees then the company has to pay Fringe Benefits Tax (FBT). You may claim an income tax deduction for the cost of providing the benefits and the amount of FBT paid. There are some benefits for expatriates which are exempt from FBT.

An FBT Return has to be lodged on an annual basis. The FBT year is the 12 months from 1 April to 31 March. The current FBT rate is 46.5%.

## **Capital Gains Tax (CGT)**

Capital Gains Tax (CGT) applies when a profit is made on disposal of a capital asset acquired after 20 September 1985. Capital assets include tangible assets such as land & buildings, shares, units in a unit trust & options and intangible assets such as goodwill and rights.

CGT is paid on the profit on sale i.e. proceeds from sale - cost base = gross capital gain. The cost base consists of the original purchase price, any other costs associated with the purchase, any costs associated with the sale (e.g. agents' commissions & legal fees) and any depreciation claimed on the asset.

The capital gains earned by a company are taxed at 30% as part of the total taxable income for a company or branch.

Individuals and trusts are entitled to a 50% discount on the gross capital gain where the asset has been held for more than 12 months.

## **EMPLOYEE BENEFITS & RELATED COSTS**

Employees in Australia are entitled to certain benefits from the employer. There are also costs associated with employing workers in Australia.

### **Annual Leave**

Full-time employees (working 38 hours a week) in Australia are entitled to 4 weeks (20 days) annual leave every 12 months. If an employee works less than 38 hours a week the leave is pro-rated. Casual employees are not entitled to annual leave.

The leave is paid at the employee's basic period pay rate. Leave can be taken when the employee has accumulated the leave & the employer agrees. Annual leave carries forward from year to year until the employee takes the leave. When an employee leaves the company any unused annual leave will need to be paid out in cash.

### **Personal/carers Leave**

All employees except casuals are entitled to paid person/carer's leave of 10 days each year. Employees are also entitled to 2 days of paid compassionate leave per occasion.

### **Long Service Leave**

An employee is generally entitled to long service leave (LSL) after 10 years of full-time service with one employer. This is governed by state & territory laws, therefore the laws differ for each state & territory.

In the state of NSW employees are entitled 2 months LSL at the end of 10 years service and 1 month for every 5 years after that.

### **Superannuation**

An employer is required to pay superannuation of 9% of gross wages for employees aged between 18 & 70 and who are paid wages of at least \$450 per month. There is a maximum payable per quarter which is indexed. For the 2011 financial year the cap is \$3,799.80 per quarter (based on a wages threshold of \$42,220 per quarter). The cap changes every financial year.

Superannuation is to be paid into an employees chosen or employer default complying super fund on a quarterly basis. Superannuation is governed by the federal government and if not paid by the due date it is not tax deductible.

### **Workers Compensation Insurance**

Workers compensation is governed by state & territory governments. Workers compensation provides protection for workers and their employers in the event of a work related injury or disease. Workers compensation insurance is compulsory for each state of employment.

The insurance premium is calculated based on wages & salaries, superannuation & fringe benefits for employees for a year. The rate is determined by the level of risk associated with the work performed.

## Payroll Tax

Payroll tax is a state imposed tax on the wages paid by employers. It is calculated on the amount of wages an employer pays per month. Payroll tax must be paid if the employers' total Australian wages exceeds the exemption thresholds in each state or territory. The thresholds vary between the states.

In NSW the threshold is currently set at \$658,000 for the year. The rate of tax payable is currently 5.5%. Tax is payable on the amount above the threshold. Payroll tax is calculated & paid on a monthly basis to the respective state of employment. The payment has to be made by the 7<sup>th</sup> day of the following month.

## OPENING BANK ACCOUNTS

Different banks offer different types of accounts to suit your needs. All banks have the same requirements to open a business account in Australia.

The business will need to provide:

- Certificate of Registration with ASIC
- 100 points ID for signatories i.e. passport, driver's licence, Medicare card, bank cards etc.

The procedure for ID check on signatories living outside Australia will vary from bank to bank. Some banks do accept verification from an equivalent bank in the foreign country. This will need to be checked with the relevant bank in the initial processing stages.

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