



Doing business in Australia

In association with:





Contents

Introduction	p3
Legal overview	p4-7
Conducting business in Australia	p8-9
Tax system	p10-15
Labour	p16-18
Audit	p19
Trade	p20-21
Finance	p22
Infrastructure	p23

Introduction

This guide to doing business in Australia will provide foreign investors with an insight into the key aspects of undertaking business and investing in the country.

Australia is one of the most attractive business locations in the world. It is a strategic location for multinational companies targeting market opportunities in the Asia Pacific region. Australia has a relatively deregulated and open economy and it offers investors a stable political and economic environment and a skilled and multilingual workforce.

Australia has one of the strongest and most competitive economies in the world; it has grown an average of 3.2 per cent per annum since 1990. Additionally, it has a stable inflation level and a low unemployment rate. Australia has not been severely impacted by the

global financial crisis or the recent natural disasters in Australia, Japan or New Zealand; the country's fundamental economic indicators remain strong by world standards.

Some of the country's main business partners include Japan, USA, China, South Korea, New Zealand and the United Kingdom.

Multinational businesses view Australia as a dynamic centre for their operations in the Asia Pacific region. The key business centres are in Sydney, Melbourne, Brisbane and Perth. In order to attract foreign investors, the government has almost halved tariff rates on imports in the last decade. Additionally, other

major tax changes have resulted in substantial cuts to the corporate tax rate. The Australian government encourages foreign investment with a transparent and liberal screening process. While certain investments require prior approval, there are currently no general foreign exchange restrictions.

This guide makes reference to some of the most common issues investors might face; however, it must be noted that certain industries are subject to special regulation and therefore companies wishing to invest in Australia should seek legal advice.

¹World DataBank

Legal overview

Political and legal system

The Australian political system is very stable. It is a federal system of government within which there are four divisions: Commonwealth, state, territory and local governments. Australia is divided by a written Constitution into a federation of six states (New South Wales, Queensland, South Australia, Tasmania, Victoria and Western Australia) and two territories (Australian Capital Territory and Northern Territory).

The Australian legal system is developed from British law; however, unlike Britain, Australia has a written Constitution which divides the powers of the government into three: the legislature, the executive and the judiciary.

The Federal Parliament is divided into a "lower" house (House of Representatives) and an "upper" house (Senate). Its responsibilities include foreign affairs, immigration, social security, communications, collection of income tax, defence, trade practices and commerce and insurance law. Bills introduced into parliament must be passed by both the upper and lower houses to become law.

Each State and Territory has their own Parliament and Constitution Act which can be amended by their Parliament. Nevertheless, they are all bound by the national Constitution.

The Commonwealth and the State Governments and Territories cooperate in many areas such as education, transport, health and law enforcement even if the States and Territories are formally responsible.

While Australia is an independent country, the Queen Elizabeth II

of Great Britain is the Queen of Australia. She has the power to appoint a Governor General who advises the elected government and represents her. Although the Governor has a wide range of powers, generally he/she acts only on the advice of ministers in virtually all matters. There are six State Governors that perform similar duties in their respective States.

The legal system of courts operates at both the Commonwealth and State level. Judicial power of the Australian Government is vested in the High Court of Australia. In addition, all States have a Supreme Court and their own court systems.

Law enforcement responsibilities are shared between the Federal and State police forces.

Data protection

Privacy legislation regulates the manner in which private sector organisations can collect, use, keep, secure and disclose personal information.

The main regulation is the Privacy Act 1988. There are many other Federal and State Acts that address privacy law.

The Privacy Act defines personal information as information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about an identified individual or an individual who is reasonably identifiable.

The provisions of the Act apply to:

- Private entities with an annual turnover of at least AUD3 million per year or that trade in personal information or provide a health service

- Australian Government federal public sector entities that collect, use and/or disclose the personal data of individuals

As a general rule, the Privacy Act only applies to acts and practices in Australia; however, in certain circumstances, it can apply to overseas acts and practices of entities that have a jurisdictional link with the country. For instance, a practice engaged outside Australia by an organisation that carries out business in Australia or that has collected personal data in Australia would be subject to the Privacy Act.

There are 13 principles established by the Australian Privacy Principles (which are contained in the Privacy Act) that must be adhered to ensure that data is processed properly. In summary, the principles cover the following:

- Open and transparent management of personal information
- Anonymity and pseudonymity
- Collection of solicited personal information
- Use or disclosure of personal information
- Direct marketing
- Cross-border disclosure of personal information
- Adoption, use or disclosure of government related identifiers
- Quality of personal information
- Security of personal information
- Access to personal information
- Correction of personal information

Personal information about racial or ethnic origin, political opinions, membership of a political association, religious beliefs or affiliations philosophical beliefs, membership to a trade union,

sexual preferences or practices, criminal record, genetic or health information is considered as sensitive information. It can only be processed and used if one of the following conditions applies:

- The collection is required by law
- The collection is necessary to prevent or lessen a serious and imminent threat to the life or health of any individual
- The individual has consented and the information is reasonably necessary for one or more of the organisation's functions or activities

The Privacy Act sets out a list of requirements as to the form and content of the notices that are to be sent to individuals when collecting their personal and sensitive information.

An organisation processing personal information must take reasonable steps to protect the personal data it holds from misuse, interference, loss, unauthorised access, modification or disclosure. Where cross-border disclosure of information may be involved there may be further obligations and responsibilities imposed on the collecting entity for the overseas recipient's use of the information.

In addition to the provisions of the Privacy Act, there are other privacy-related provisions in sectorial legislation such as that governing the telecommunications sector.

Additionally, the Corporations Act 2001 imposes a number of obligations on financial services businesses relating to data security and data management.

The Office of the Australian Information Commissioner (OIA)

has the power to investigate complaints and enforce the Privacy Act. It also has the power to conduct investigations on its own motion and impose civil penalties.

As a general rule, the OIA tries to resolve complaints through reconciliation. However, it can also issue determinations stating that the respondent must not repeat or continue the conduct that constituted an interference with privacy. In certain cases, the respondent may need to redress any loss or damage suffered by the complainant.

Both the OIA and the complainant are entitled to commence court proceedings to enforce determinations. Serious or repeated breaches of the Privacy Act can result in fines of up to AUD340,000 for individuals and AUD1.7 million for corporations.

The Financial Ombudsman Service Australia (FOS) may also consider a privacy and confidentiality related complaint that is escalated via the external dispute resolution scheme by a 'small business customer' (as defined under the FOS Terms of reference) about a private sector organisation that is a FOS member.

Personal Properties and Securities Act

The Personal Property Securities Act 2009 (PPSA) is a nationalised scheme which centrally provides for the creation, registration, priority and enforcement of security interests in personal property.

Scope

The PPSA applies to security interests in personal property. A security interest is an interest that essentially secures payment or performance of an obligation in personal property. Personal property

covers almost all forms of tangible and intangible property owned by any type of legal entity, other than real property. Examples include motor vehicles, household goods, business inventory, intellectual property and company shares.

Exclusions

Items not covered under the PPSA are real property (interest in land) and the items expressly excluded under statute. Examples of items that are expressly excluded include interest arising from the legislation, a transfer of present or future remuneration (including wages, salary, commission, allowances or bonuses) payable to an individual as an employee or a contractor and a transfer of an interest or claim in, or under, a contract of annuity or policy of insurance.

Exchange controls

There are no exchange control restrictions on the transfer of funds into or out of Australia. However, under the Financial Transactions Reports Act 1988, financial institutions and other cash dealers are required to formally report cash transactions in excess of AUD10,000.

Additionally, Australian foreign exchange controls are implemented from time to time. Presently, controls are in place in relation to withholding taxes on remittances or dividends (to the extent they are unfranked) and interest payments and the sanctions administered by the Reserve Bank of Australia.

Money laundering regulation

The Anti-Money Laundering/Counter-Terrorism Financing Act 2006 (AML/CTF Act) forms part of a legislative package which strengthens Australia's AML/CTF regulatory regime and brings it into line with international standards

including standards set by the Financial Action Task Force (FATF).

The AML/CTF Act and the supporting AML/CTF Rules together implement a principles-based and risk-based approach to regulation. Reporting entities determine the way in which they meet their obligations based on their assessment of the risk of whether providing a designated service to a customer may facilitate money laundering or terrorism financing.

Under the AML/CTF Act, AUSTRAC is Australia's AML/CTF regulator with supervisory, monitoring and enforcement functions. AUSTRAC is also Australia's specialist financial intelligence unit. The enforcement

powers available to AUSTRAC include enforceable undertakings, remedial directions, civil penalties and criminal penalties.

Intellectual Property Rights

In Australia Intellectual Property Rights such as trademarks, copyrights, patents and designs are protected by law. While there is specific legislation for each Intellectual Property Right, alternative remedies are available in laws. For instance, common law for goods and services provides solutions for goods or services that are 'passed off' as those of another. Trade secrets and confidential information are also protected under certain circumstances.

IP Australia is the government agency that administers Intellectual Property Rights and legislation relating to patents, trademarks and plant breeder's rights.

Australia signed the Berne Convention for the Protection of Literary and Artistic Work which means that works created in other countries that are signatories of the convention are entitled to the same protection given by the government to Australian nationals. It is also a party to the Patent Co-operation Treaty for the international registration of patents.

COPYRIGHT

Copyright is automatically granted in Australia, irrespective of registration. Copyright can protect: books, films, music, sound recordings, newspapers, magazines and art work as well as originally created typographical arrangements, databases, media broadcasts, computer programs, compositions of other people's work such as academic journals or CD compilations. The Copyright Act does not require the 'work' to be of artistic or literary quality, the only requirement is for the work to be original.

Protection granted

Copyright is covered by the Copyright Act 1968 and is automatically granted in Australia. It gives the owner exclusive rights to license others with regard to copying work, performing in public, broadcasting, publishing or making any adaptations of the original piece of work. The Copyright Act also recognises moral rights and digital rights such as Electronic Management Information and technological protection measures.

Although copyright laws differ from country to country, Australia is party to a number of international treaties and international works may also be subject to copyright protection.

Infringements

Acts that infringe copyright include; copying, performing in public, broadcasting, publishing or making any adaptations of the original piece of work. It does not include protection against independent creation of a similar work.

Legal actions against copyright infringement can be complicated by the number of different types of copyright that can apply across a piece of work.

Duration

Copyright is enforceable as follows:

- 70 years from the authors death or from the publication after the author's death
- Films and sound recordings – 70 years from their publication
- Broadcasts – 70 years from the year they were made

PATENTS

A patent is the right that is granted for any device, substance, method or process that is new, inventive and useful. In Australia there are two types of patents: standard and innovation patents. A standard patent protects an invention that is novel, involves an inventive step and can be made or used in an industry. Innovation patents were introduced to protect inventions that did not meet the inventive threshold required for standard patents. This type of patent requires an innovative step rather than an inventive one (an innovative step exists when the invention is different from what it is known before and the difference makes a substantial contribution to the working of the invention).

Protection granted	In Australia, patents are granted under the Patents Act 1990. They are legally enforceable and give the owner exclusive rights to commercially exploit the invention for the life of the patent. The owner must apply for the patent in order to obtain protection and protection is provided within Australia only.
Infringements	Acts that infringe patents include manufacturing and/or selling an invention in Australia without the owner's permission.
Duration	<p>Patents are enforceable as follows:</p> <ul style="list-style-type: none"> • Standard patents last up to 20 years • Innovation patents last up to eight years • Pharmaceutical patents last up to 25 years <p>In order to ensure the enforceability of patents, an annual maintenance fee must be paid.</p>

TRADE MARKS

A trade mark is used to distinguish the goods and services of one trader from another and can be granted for letters, numbers, words, phrases, sounds, smells, shapes, logos, picture and/or an aspect of packaging.

Protection granted	<p>In Australia trademarks are regulated by the Trade Marks Act 1995. Registered trademarks are legally enforceable and give the owner exclusive rights to commercially use, license and or sell the goods or services that are registered under the trademarked item.</p> <p>While the trade mark does not need to be registered for its owner to have rights and enforce them, the enforcement process is simpler when trademarks are registered.</p>
Infringements	Acts that infringe trademarks include: using an identical or similar trademark for identical or similar goods and services to a registered trademark, creating a likelihood of confusion on the part of the public.
Duration	10 years (can be renewed in successive periods of 10 years).

DESIGNS

A design registration covers the features of a product's unique appearance including its shape, configuration pattern or ornamentation that are new and distinctive.

Protection granted	In Australia registered designs are regulated by the Design Act 2003 which provides that a design cannot be registered unless it is both new and distinctive. A registered design gives the owner exclusive rights to commercially use or license the design of a product. The design cannot be registered if it has been published before the registration application is completed.
Infringements	Acts of design infringement include making unauthorised copies of a product's unique appearance.
Duration	Five years – with the option to renew the registration for an additional five years.

Conducting business in Australia

Business entities

Any foreign company or individual wanting to do business in Australia will need to decide under which form they want to operate. There are many business structures available in Australia including:

- Sole trader
- Partnership
- Trust (discretionary, unit or hybrid)
- Limited liability companies
- Joint venture (incorporated or unincorporated)

Limited liability companies

There are essentially two main types of limited liability companies in Australia, those being:

- Public companies (listed or unlisted)
- Proprietary private companies

A proprietary company is a private company that is limited by shares or an unlimited company that has the following:

- A share capital
- No more than 50 non-employee shareholders
- Must not engage in any activity that would require the lodgement of a prospectus

The most common way to operate is within a company limited by shares.

The main features of public and proprietary companies are as follows:

Requirements	Public	Proprietary
Minimum number of shareholders	1	1
Maximum number of shareholders	No limit	50
Minimum number of directors	3	1
Directors resident in Australia	2	1
Minimum number of resident secretaries	1	0

The following are also required under both forms of company:

- At least one company secretary must be appointed and at least one director must be resident in Australia
- The directors must be natural persons over the age of 18
- The shareholders do not have to own shares beneficially
- Each company must appoint a public officer to meet the requirements of the tax authorities (usually the company secretary)
- There are regulations on keeping statutory records and making annual filings
- Audited accounts (where applicable) and an annual return must be filed and are available for public inspection

Formation

To incorporate a proprietary company, the foreign company must choose a name that is available and acceptable for registration. Once the name is chosen the company needs to complete an application form with the Australian Securities and Investment Commission (ASIC). This application must contain: the registered office and principal place of business, the share structure, the shareholders and the proposed directors or secretary.

Following incorporation, the company needs to apply for an Australian Business Number and a Tax File Number.

Changes to the following must be notified to ASIC within 28 days of the change:

- Company name
- Company details
- Company constitution
- Directors details
- Share structure or shareholder details

Further, a listed public company must comply with the listing requirements set down by the Australian Securities Exchange (ASX).

Capital stock and shareholders

Private companies only require one shareholder as a minimum, with 50 shareholders as a maximum. There is no limit on the number of shareholders for public companies.

Management

A private company only requires one director who must be a resident of Australia. A public company must have at least three directors, two of which must be residents of Australia.

Filing requirements

Once a foreign company is registered, it is required to lodge a full set of financial accounts with ASIC on an annual basis, as well as lodging any documents required by law in the company's place of origin.

Each company will also have its own "review date", where the company will be required to review its corporate secretarial details and declare that it is solvent. Companies also have to pay an "annual review fee" to ASIC within two months of this date, with the fee being AUD243 for proprietary companies and AUD1,146 for public companies².

Dissolution

A company is dissolved by a process known as "members' voluntary liquidation", whereby the shareholders appoint a liquidator who takes control of the company and discharges its liabilities and distributes the surplus to shareholders.

Alternatively any company with assets of less than AUD1,000 and no outstanding liabilities may be deregistered with ASIC. This process is simpler; however, care must be taken as protection for directors is limited.

Sole proprietorships

In order to establish a sole proprietorship an Australian Business Number (ABN) must be obtained from the Australian

Business Register website.

ABN's are required to be quoted when dealing with customers and suppliers.

Foreign company branches

To establish a foreign branch, it is necessary to register as a foreign company in Australia with ASIC. In order to do this a company must first ensure that their name is reserved in Australia and approved, complete the relevant application form and lodge this with ASIC which will incur a fee of AUD457³.

In addition, a registered office needs to be established in Australia and a local agent must be appointed. Once registered, the foreign company will be allocated an Australian Registered Body Number (ARBN).

Branches need to file foreign company's annual accounts and comply with any other applicable reporting requirements.

Local subsidiaries (wholly owned companies)

Another alternative is to acquire the share capital or the assets of an existing Australian Company. This process must adhere to Australia's takeover legislation relating to share acquisitions as well as Australia's foreign investment policy.

Partnerships

General partnerships

A general partnership is a relationship that exists between two or more parties carrying on a business with a view to profit from this business. Profits, losses and liabilities do not remain in the business but pass through to the partners themselves, where the income is taxed.

Limited partnerships

A limited partnership is one where at least one of the partners has limited liability. For tax purposes, limited partnerships are effectively treated as companies.

Formation

To establish a partnership, the founding partners should create a written partnership agreement detailing their intentions for the business and the method of operation. The partnership will also be required to apply for an ABN in order to trade with other entities.

Joint ventures

A joint venture occurs when two or more businesses operate together for a particular outcome, contributing their assets and expertise to produce a common output. It is a more temporary process, whereby profits are taxed in the original participating entities.

Trusts

A trust is a relationship that exists when property or income is held in a trust by a trustee for the beneficiaries. The trustee oversees the running of the trust, which must follow the rules of the particular trust deed. The most common types of trust are discretionary, unit or hybrid trusts. Discretionary trusts allow the distribution of income to go to the trustee's choice of recipients, given the beneficiaries outlined in the trust deed. A unit trust must distribute income to the unit holders in fixed proportions to their holdings. A hybrid trust is a combination of the discretionary and unit trusts. Income that is retained in a trust is taxed at Australia's highest marginal rate of tax.

² Current as at 12-02-2015

³ Ibid

Tax system

Australian tax legislation is complex. It is strongly recommended that businesses seek professional advice before undertaking business transactions in Australia.

The main taxes that businesses operating in Australia need to pay are:

Federal taxes:

- Income tax (including capital gains)
- Fringe benefits tax
- Superannuation guarantee charge
- Withholding taxes
- Goods and services tax
- Customs and excise duties
- Land taxes
- Petroleum resource rent tax

State taxes:

- Stamp duty
- Payroll tax
- Land tax

Income Tax:

- The main classes of taxpayers are individuals and corporations
- A resident (company or individual) pays income tax on all income, irrelevant of its source, although some exemptions may apply to certain foreign incomes
- Non-residents are taxed on income derived from sources in Australia
- There are special rules for foreign source income and foreign tax credits
- Allowable losses may be carried forward indefinitely subject to tests for companies
- There are general and specific anti-avoidance provisions designed to prevent artificial, contrived or deceptive schemes aimed at tax avoidance

Corporate Income Tax (CIT) Rates and scope

The current Australian CIT rate is 30 per cent.

Australian tax resident companies are subject to CIT on their worldwide income. A company is deemed to be an Australian resident if any of the following circumstances applies:

- It is incorporated in Australia
- It carries out business in Australia and has either its central management and control in Australia or has resident shareholders controlling the voting power

Non-resident corporations that act through an Australian permanent establishment are subject to CIT on their Australian sourced income, at the CIT rate.

Non-resident corporations that do not operate through an Australian permanent establishment are taxed on Australian-source passive income (interest, dividends and royalties), by way of a final withholding tax. The withholding tax may be reduced if there is an applicable Double Tax Treaty. See Withholding Taxes below for further information.

Taxable income

The taxable income for an Australian company (or a non-resident carrying on business at or through an Australian permanent establishment) is calculated by the assessable income less deductions.

Assessable income is generally computed on a derivation basis and includes income from all sources and capital gains (see Capital Gains below for further information).

Expenses are deductible to the extent they are incurred in

gaining or producing assessable income, or necessarily incurred in carrying on a business. Expenses of a capital or private nature and expenses incurred when producing exempt income cannot be deducted. Similarly, entertainment expenses, penalties, and fines are not deductible.

Depreciation allowances on plant and equipment assets are an allowable deduction and applied over the useful life of the assets according to tables published by Australian Taxation Office (ATO).

Administration

The Australian tax year runs to 30 June, but substituted accounting periods may be allowed, particularly when the company is associated with a non-resident parent company.

A self-assessment system applies, and companies must generally file their annual return by the 15th day of the seventh month after the end of their tax year. Final tax payments are due one month prior to lodgement of the tax return.

Late return lodgements and late tax payments may be subject to administrative penalties and General Interest Charges.

A Pay-As-You-Go (PAYG) withholding system operates to facilitate the withholding and payment of various items, including payment of company tax instalments and withholding of tax from employees salary.

Reporting periods vary from monthly, quarterly or yearly and are dependent on the size of an organisation.

Tax Consolidated Groups

Australia has a tax consolidation regime, whereby a single Australian



head company (or trust taxed as a company) and all of its 100 per cent owned subsidiaries (including certain trusts) can form a TCG. General benefits of forming a TCG includes, reduced compliance costs through the lodgement of one tax return, loss transfers amongst members and the ability to effectively ignore all intra-group transactions.

Thin capitalisation rules

Australia has a thin capitalisation regime intended to prevent multinational entities shifting profits out of Australia. This is achieved through the limitation of debt deductions available to an entity where the debt funding is above certain limits.

The Australian thin capitalisation rules apply where:

- Total debt deductions exceed AUD2 million
- The Australian entity is either controlled by a foreign entity (inward investor) or controls foreign entities (outward investor)

Generally, the rules deny debt deductions if the adjusted average debt (which includes all debt owed to both foreign and domestic related and non-related parties) exceeds the entity's maximum allowable debt (determined very broadly as a debt-to-equity ratio of 1.5:1). However, the exact threshold will depend on the type of entity in question, that is, whether the entity is a financial or non-financial entity.

For Authorised Deposit-taking Institutions (ADIs), the debt limitation threshold is determined by reference to available capital, which should be equivalent to 6 per cent of the Australian Risk Weighted Assets.

Where the debt limitation levels are breached, debt deductions will be denied in the ratio of the excess. The interest disallowed is a permanent disallowance.

Losses

Whilst revenue and capital losses can be carried forward indefinitely, an entity must satisfy the general loss recoupment tests including a continuity of ownership test or failing such, a test which ensures that the same business (or no new business) has been carried on by the loss-making entity. Groups that do not form a tax consolidated group for Australian tax purposes cannot transfer losses.

Dividends

A dividend imputation system exists to prevent the double taxation of company profits, whereby shareholders who receive a dividend may be entitled to a tax offset for the tax already paid by company on the distributed income. The amount of the tax credit 'imputed' to the shareholder is at the discretion of the company. There are anti-avoidance rules to prevent the beneficial streaming of imputation credits to certain taxpayers.

Intra-group dividends are ignored within tax consolidated groups.

See Withholding Taxes below for the impact of withholding taxes when dividends are distributed to non-residents.

Withholding taxes

Interests, dividends and royalties paid to non-residents are subject to Australian withholding tax. Withholding tax rates (subject to treaty variations) are as follows:

Dividends: a 30 per cent rate applies for unfranked dividends paid to non-residents. A reduced rate of 15 per cent applies to residents in most treaty countries and five per cent to non-portfolio investments from the USA and the UK. No withholding tax will typically apply to fully franked dividends.

Interest: a 10 per cent rate applies to non-residents. However, double tax treaties may reduce the rate or lower it to nil. There are exemptions available for certain publicly offered debentures and state and federal government bonds.

Royalties: a 30 per cent rate applies to royalties paid to non-residents; this rate is typically reduced to 10 per cent for most double tax treaty countries.

Managed Investment Trusts (MIT): distribution by a MIT to non-residents is generally subject to 30 per cent withholding tax. A

reduced withholding tax rate of 15 per cent applies if the non-resident's address or place of payment is in an 'information exchange country'. A MIT that only hold newly constructed, energy-efficient commercial buildings are eligible for a 10 per cent withholding tax rate.

Transfer pricing

In Australia, related party transactions must be conducted at arm's length prices. New transfer pricing rule were enacted, with retrospectivity, commencing for income years on or after 1 July 2013.

The new rules introduced a self-assessment regime which requires broader documentation and increases the probability of transfer-pricing adjustments, particularly for those companies with vast intra-group financing arrangements.

The new law has incorporated the 2010 OECD guidelines on transfer pricing and it is for the Public Officer that signs the income tax return to confirm that related-party transactions are in line with the arm's-length conditions.

When the actual and arm's-length conditions are not aligned and a transfer-pricing benefit is received, the taxable income and losses must be adjusted.

Transfer-pricing adjustments with international related parties that are not appropriately documented can result in penalties of at least 25 per cent of the undocumented transaction.

Transfer pricing adjustments under the new rules can only be made within seven years of the original assessment – previously, no time limit existed.

Tax incentives

Research and development

Australia has a tax credit system for Australian companies undertaking

eligible research and development (R&D) activities. This broadly occurs where a company tries to do or make something that has not been done before, and cannot be done without experimenting.

Where eligible R&D activity expenditure of more than AUD20,000 occurs in an income year, companies may be entitled to the following tax credits:

- Non-refundable tax credits of 45 per cent, where group turnover is less than AUD20 million
- Non-refundable tax credits of 40 per cent, where group turnover is more than AUD20 million
- Non-refundable tax credits of 40 per cent for local companies conducting 'foreign-owned' R&D

Other fiscal incentives

Tax incentives apply to the following:

- Investment companies that provide equity capital for small to medium-sized firms (total assets less than AUD50 million) and are registered as a Pooled Development Fund
- Infrastructure borrowings by companies to be used in financing the construction of infrastructure facilities including land transport, sea ports, or electricity-generating facilities that such companies intend to own, use or control for 25 years in Australia that are then used by the public for a charge
- Expenditure on patents, copyrights and designs
- Expenditure on environmental impact studies
- Capital expenditure for the investment in approved Australian films
- Expenditure incurred for environmental protection purposes
- Capital expenditure incurred on the construction of new buildings used for the purpose of producing assessable income of for research and development purposes

Personal Income Tax (PIT) Individuals liable to Australian Income Tax

In Australia, PIT is based on tax residency. The statutory definition of residence extends beyond simply residing in Australia and includes:

- Australian citizens, unless they have a permanent place of abode outside Australia
- Persons who have actually been in Australia for more than 183 days in a year, unless they have an ordinary place of abode outside Australia

Non-residents are only assessable on income and capital gains derived from sources within Australia.

Expatriate employees who become residents are subject to complex rules, which might affect their assets located outside of Australia. Expatriate employees who are on an Australian temporary visa may be classed as temporary residents. Foreign income earned by temporary residents, excluding certain employment income, will not be subject to tax in Australia. Temporary residents are treated similarly to non-residents for Capital Gains Tax purposes in that they are only subject to tax in respect of taxable Australian property.

For Capital Gains Tax (CGT) purposes incoming residents are deemed to have purchased CGT assets that are not connected to Australia on the date of taking up residency at a cost base equal to their market value on that date. See Capital Gain Tax below for further information.

Tax rates 2014/2015

Tax rates are set annually in the Federal Budget. They are set in graduated bands whereby the higher the income the higher the tax rate. The tables below outline current personal tax rates:



Non-residents are only assessable on income and capital gains derived from sources within Australia.

Resident taxpayers		Non-resident taxpayers	
Taxable income (AUD)	Tax payable (AUD)	Taxable income (AUD)	Tax payable (AUD)
0 – 18,200	Nil	0 - 80,000	32.5 per cent of amount
18,201 - 37,000	19 per cent of amount over 18,200	80,001 - 180,000	26,000 + 37 per cent of amount over 80,000
37,001 - 80,000	3,572 + 32.5 per cent of amount over 37,000	> 180,000	63,000 + 45 per cent of amount over 180,000
80,001 - 180,000	17,547 + 37 per cent of amount over 80,000	-	-
> AUD180,000	54,547 + 45 per cent of amount over 180,000	-	-

Medicare levy

Under the national health insurance program, individuals are subject to a levy on taxable income to supplement the cost of Medicare. The levy is equal to 2 per cent, with the exemption of low income earners. An additional surcharge, up to 1.5 per cent, may be imposed on certain high-income earners who are not covered by private health insurance.

Temporary Budget Repair Levy

As part of the 2014-15 Federal budget the Government introduced a Temporary Budget Repair Levy.

Individual taxpayers with taxable income of more than AUD180,000 per year will have additional tax withheld by their employer, starting from 1 July 2014.

The levy is payable at a rate of 2 per cent of each dollar of a taxpayer's taxable income over AUD180,000.

It will apply to both resident and non-resident individuals from 1 July 2014 and applies to the 2014-15, 2015-16 and 2016-17 income years.

Administration

The Australian tax year runs to 30 June, and individuals must generally file their annual return by 31 October. The payment of PIT is due 21 days after the due date for lodgement of a taxpayer's return or 21 days after a notice of assessment is given to the taxpayer, whichever is later.

If returns are lodged via a tax agent, there are special extensions of time arrangements under the tax agent lodgement program with the ATO.

Late return lodgements and late tax payments may be subject to administrative penalties and General Interest Charges.

Franked dividends

Individual shareholders who receive franked dividends from Australian companies are entitled to the benefit of a franking rebate equal to the imputed credit in order to reduce or eliminate the tax payable by shareholders on the dividends. Individual shareholders are entitled to refunds where the franking rebate is greater than the individual tax payable.

Other taxes

Goods and services tax (GST)

A 10 per cent GST is imposed on the supply of the vast majority of goods and services in Australia. The only exemptions from GST are goods and services that have been designated as either "GST-free" or "input taxed", as summarised in the following table:

GST-free	Input taxed
Exports of goods and some services	Financial supplies
Health and medical care	Supply of private residential premises for rent
Education and child care	Sale of residential property other than "new" properties
Basic food items	Food items sold by school canteens/cafeterias
International transport and travel	Fundraising activities by charities
Certain supplies by charities and religious bodies	Supplies of precious metals that are not GST-free
Supplies of certain newly refined precious metals	
Sale of a 'going concern'	
Sale of certain farmland	
A grant of Crown land	
Water, sewage and drainage supplies	
Care for disabled people	

An entity is liable to pay GST when it is registered or required to be registered for GST purposes. An entity is required to be registered for GST if its annual turnover is AUD75,000 or more (AUD150,000 or more for not-for-profit organisations).

A recipient of goods or services which is a registered business entity will be able to claim a credit (known as "input tax credits") for the amount of GST that it has paid, provided it holds a tax invoice from the supplier and that

the expense does not relate to the making of an input taxed supply. This input tax credit is offset against any GST on goods or services that the recipient supplies to its own customers.

GST on taxable supplies and input tax credits are accounted for in the Business Activity Statement (BAS) that may be lodged monthly or quarterly. Monthly returns are compulsory in some situations, such as where the annual turnover is AUD20 million or more.

Capital gains tax (CGT)

As a general rule, capital gains are calculated by identifying the capital proceeds from a taxable disposal (known as a CGT event) and deducting the cost base of the CGT asset.

All assets acquired since 20 September 1985 are subject to CGT, unless specifically excluded. A CGT asset is broadly defined, and includes any kind of property, a legal or an equitable right.

The following table outlines various aspects of the CGT regime.

Australian residents	Taxable on worldwide gains
Non-residents	Subject to CGT on assets considered 'taxable Australian property', which includes: <ul style="list-style-type: none"> • Real property located in Australia; • Business assets of an Australian permanent establishment; and • Interests in entities (including foreign entities) where the value of the interest is principally attributed to Australian real property, and the taxpayer and its associates own at least 10 per cent.
Exemptions	Common exemptions for individuals can include: <ul style="list-style-type: none"> • Gains on an individual's main residence; • 50 per cent discount for assets held for 12 months or longer Exemptions for companies can include discounts on gains made on certain small business assets. Gains on assets sold within a tax consolidated group can also be disregarded.
Rollovers	There are a number of rollovers that allow the relevant capital gain to be disregarded.



Australian residents	Taxable on worldwide gains
Capital losses	<p>Capital losses are only deductible against capital gains and can only be transferred within a consolidated group.</p> <p>Utilisation of capital losses by companies is also dependent on the satisfaction of various ownership tests and/or maintaining the same business activities.</p>
Rate	<p>The net capital gain of a corporate taxpayer is taxed at the general corporate rate of 30 per cent. For individuals, the net capital gain (after any discounts and capital losses) is added to their other taxable income and taxed at the marginal rate.</p>

Fringe benefits tax (FBT)

FBT is imposed on the value of non-cash and other benefits provided to an employee in respect of employment. Payable by the employer, the benefits are exempt from income tax in the hands of the employee.

The FBT year runs from 1 April to the following 31 March. The current FBT rate for the year ended 31 March 2015 is 46.5 per cent although FBT is calculated on the "grossed-up" value of the benefits provided. Benefits are generally grossed-up by 2.0647, although this gross-up rate reduces to 1.8692 where the employer is unable to claim an input tax credit on the underlying benefit.

FBT is an allowable deduction against the employer's assessable income.

Payroll tax

Payroll tax must be remitted, and returns filed, in each state by an employer whose total annual Australian wages exceed a State specified exemption threshold. The term "wages" is widely defined and generally includes salaries, commissions, bonuses, allowances, fringe benefits and superannuation contributions.

Payroll tax thresholds and rates vary across the relevant States.

Superannuation guarantee charge (SGC)

Employers are required to contribute a minimum of 9.50 per cent of an employee's ordinary time earnings into a superannuation fund. Employers who provide less than that prescribed level of superannuation support for their employees are liable to pay a superannuation guarantee charge based on the shortfall plus interest and an administration charge.

Stamp duty

Stamp duty is a State and Territory tax controlled by the eight separate jurisdictions and imposed either at a fixed rate or in proportion to the value of the transaction. Stamp duty is generally imposed on transfers of property, dealings in shares and unit trusts, renting and hiring of goods and mortgages.

Customs duty

Customs duty is imposed on many goods imported into Australia at a rate of five per cent. The purpose of this tax is to provide protection for domestic manufacturers and wholesalers. Certain exemptions apply for goods that are not subject to Australian competition.

Land taxes

All States and Territories, with the exception of the Northern Territory, impose land tax, which is an annual tax assessed to the owner of land. The tax is broadly levied on the unimproved value of taxable land, subject to various thresholds and exemptions as provided under the legislation of each state.

Tax treaties

Australia has entered into a large number of double taxation agreements with other countries to avoid international double taxation and to prevent fiscal evasion. The agreements set out the source country tax limits applicable to various forms of income including unfranked dividends, interest and royalties.

Labour

Employment regulation

Employment is usually based on an award, which stipulates the minimum wages and conditions an employee is entitled to. Awards apply depending on the industry in which the employee is located or the job that they do and are set by the Australian Industrial Relations Commission. Employment may also be based on an enterprise bargaining agreement or other registered agreement and, if such an agreement exists, an employee is covered by this instead of an award. Enterprise or registered agreements also contain a set of minimum conditions and pay rates but are negotiated with an individual company or body by unions or the employees of a company respectively. A written employment contract is not required however are common. There are certain terms implied by common law which include the employer's duty to provide a safe workplace and the employee's duties of fidelity, good faith, trust and confidence.

All employees are protected by legislation including the National Employment Standards (NES) as set out in the Fair Work Act 2009. The intention of the legislation is to ensure that all employees are treated fairly. The main issues covered are:

- Hours of work
- Requests for flexible working arrangements
- Various forms of leave entitlement
- Entitlements to lump sum redundancy payments
- Protection against all forms of unfair dismissal
- The establishment of appropriate grievance procedures

Each State and Territory of Australia has further legislation covering all

aspects of the labour market. This legislation differs across states.

Minimum wage

In 2014, the minimum Australian wage for adults was set at AUD16.87 per hour.

Working time and leave

Working time

Standard employment is Monday to Friday, 38 hours per week. The time of the day when ordinary hours are worked is called the spread of hours; time worked outside the spread of ordinary hours can result in overtime or penalty rates. The governing award, enterprise agreement or other registered agreement will set out when overtime or penalty rates apply.

Long service leave

After ten years of continuous service with the same employer, employees are entitled to long service leave. Entitlements vary between different states but on average paid long service leave lasts for two months. Further leave accrues at the same ratio every five years.

Holiday pay

Annual leave entitlements are determined by the award/enterprise bargaining agreement or the individual's contract. At a minimum, four weeks (20 days) of paid annual leave are provided to employees per annum plus public holidays, prorated for part-time employees. Some awards also provide for an additional leave loading of 17.5 per cent be paid on holiday pay. Any unused leave is paid out when an individual's employment with a company is terminated.

Personal leave

At a minimum, employees are entitled to ten days 'personal leave' per year, prorated for part-time

employees, which can be taken for personal medical reasons or to care for an immediate family member. Awards/enterprise bargaining agreements may increase the amount of personal leave or sick leave an employee is entitled to. Personal leave or sick leave accrue over the period of employment it is not paid out when an individual ceases employment.

Parental leave

The National Employment Standards (NES) set out in the Fair Work Act 2009 provide for a maximum of 52 weeks of unpaid parental leave, which may be shared between both parents, to care for newborn children, or after the adoption of a child under five years of age. Employees are then able to apply for a further 52 weeks of unpaid parental leave which may only be rejected based on reasonable business grounds.

Parental leave provisions apply to all full-time, part-time and eligible casual employees with at least 12 months continuous service with their current employer.

As of the 1 January 2011, the Australian Government introduced a Paid Parental Leave (PPL) scheme. Eligible individuals are entitled to 18 weeks of leave paid at the national minimum wage, currently AUD641.05 a week before tax. The scheme is funded by the Australian Federal Government.

Healthcare and other benefits

Healthcare

Australia has a national healthcare system called Medicare, which is available to all permanent residents and citizens of the country. There are reciprocal agreements available for visitors from select countries.

Private health cover is available from a number of Government and private enterprises. There are a number of different levels of private health insurance, which can be selected to suit an individual's preferences and requirements.

Superannuation

All employers are legally obliged to make superannuation contributions on behalf of their employees. The current rate of contribution is set at 9.50 per cent of an employee's base salary but this is set to progressively increase to 12 per cent by 2019/2020.

Fringe benefits

Non-cash benefits may be offered to employees but are subject to a Fringe Benefit Tax (FBT) that is borne by employers. Examples of benefits that are subject to FBT include the provision of private health care, the use of motor vehicles provided by employers, subsidised meals and loans at concessional rates of interest.

Dismissal

The Fair Work Ombudsman and the Fair Work Commission (the Commission) are independent government organisations. While they both regulate Australia's workplace relations system, they have different roles.

The Fair Work Ombudsman enforces compliance with the Fair Work Act, related legislation, awards and registered agreements. It assists employers and employees by providing advice and education on pay rates and workplace conditions.

The Commission is the independent national workplace relations tribunal. It is responsible for maintaining a

safety net of minimum wages and employment conditions as well as a range of other workplace functions and regulations.

Employment contracts can end for many different reasons. An employee may resign or can be dismissed. Irrespective of how the contract is terminated, it is important to follow the rules about dismissal, notice and final pay.

Unfair dismissal is when an employee is dismissed from their job in a harsh, unjust or unreasonable manner.

If an employee believes they've been unfairly dismissed, they need to apply to the Commission within 21 days after their dismissal takes effect so that the decision can be reviewed. Employees need to have been employed for at least six months before they can apply for unfair dismissal. The Commission then makes a decision as to whether the dismissal was genuine or unfair and the compensation, if any, that is due.

Employees working for a small business have to be employed for at least 12 months before they can apply for unfair dismissal. A small business is defined as any business with fewer than 15 employees.

Dismissal may be unfair if it is:

- Harsh but not unjust or unreasonable
- Unjust but not harsh or unreasonable
- Unreasonable but not harsh or unjust

The concepts of harsh, unjust or unreasonable may overlap.

A dismissal may be:

- Unjust because the employee was not guilty of the alleged misconduct
- Unreasonable because the evidence or material before the employer did not support the conclusion
- Harsh on the employee due to the economic and personal consequences resulting from being dismissed
- Harsh because the outcome is disproportionate to the gravity of the misconduct (the punishment does not fit the crime)

Collective redundancies

Redundancy happens when an employer either:

- Does not need an employee's job to be performed any more
- Becomes insolvent or bankrupt

Redundancy can happen when the business:

- Introduces new technology (eg the job can be done by a machine)
- Slows down due to lower sales or production
- Relocates interstate or overseas
- Restructures or reorganises because a merger or takeover

A genuine redundancy is when:

- The person's job does not need to be performed any more
- The employer followed any consultation requirements in the award, enterprise agreement or other registered agreement

When an employee's dismissal is a genuine redundancy the employee is not able to make an unfair dismissal claim.

All awards and registered agreements have a consultation process in place for when there are major changes to the workplace such as redundancies. The consultation process sets out the steps that and the timeframe in which the employer needs to undertake when they decide to make changes to the business that are likely to result in redundancies.

Consultation requirements include:

- Notifying the employees who may be affected by the proposed changes
- Providing the employees with the information about these changes and their expected effects
- Discussing the steps taken to avoid and minimise negative effects on the employees
- Considering employees' ideas or suggestions about the changes

Severance payments

When an employee is made redundant their employer is required to pay redundancy pay, also known as severance pay. The amount of redundancy pay an employee receives is based on their continuous service with their employer. Continuous service is the length of time they are employed by the business not including any periods of unpaid leave.

Employee's period of continuous service with the employer on termination	Redundancy pay period
At least 1 year but less than 2 years	4 weeks
At least 2 years but less than 3 years	6 weeks
At least 3 years but less than 4 years	7 weeks
At least 4 years but less than 5 years	8 weeks
At least 5 years but less than 6 years	10 weeks
At least 6 years but less than 7 years	11 weeks
At least 7 years but less than 8 years	13 weeks
At least 8 years but less than 9 years	14 weeks
At least 9 years but less than 10 years	16 weeks
At least 10 years*	12 weeks

*There is a reduction in redundancy pay from 16 weeks to 12 weeks for employees with at least 10 years continuous service. This is consistent with the 2004 Redundancy Case decision made by the Australian Industrial Relations Commission.

An employee's current entitlement to redundancy pay can be dependent on whether the employee had an entitlement to redundancy pay prior to the introduction of the NES. If an employee did not have an entitlement to redundancy pay prior to 1 January 2010, an employee's period of continuous service with the employer will only accrue beginning 1 January 2010.

Social security

The Australian Federal Government provides a variety of social security benefits to citizens and permanent residents of Australia. These are funded through general taxation; there is no specific taxation to raise funds for these benefits.

Employment of resident and non-resident employees

A visa or permit to work in Australia is not required when a person is:

- An Australian citizen or a Australian Permanent Resident; or
- A New Zealand citizen or a resident who holds a current New Zealand resident return visa

There are a number of different types of work visas available depending upon the length of time that a person wishes to stay. Generally a short-term business visa covers business trips of up to three months. This can either be applied for at the local Australian embassy or, alternatively, electronically. The Electronic Travel Authority (ETA) is only available for citizens of some countries. The full list of eligible countries can be found on the Department of Immigration website.

If a longer-term visa is required, one can either apply for themselves or be sponsored by a company. In either event, a person must:

- Provide evidence of an offer of employment
- Have sufficient funds for accommodation, maintenance and repatriation on termination of employment
- Be of good health and of good character

Visitors may obtain work visas for up to four years from the date of arrival depending on the length of time stated in the offer of employment.

Employers in Australia who wish to recruit from overseas must provide evidence that there is no Australian citizen or resident available that is:

- Suitably qualified by training and experienced to do the job offered
- Readily able to be trained to do the job

All employers wishing to employ foreign workers or students to work in Australia must comply with all relevant employment and labour law in force in Australia.

Trade unions

Around 20 per cent of the fulltime workforce in Australia is unionised.

Audit

Accounting standards

Australia has a “reporting entity” concept, which underpins the financial reporting requirements. A reporting entity must apply all Australian Accounting Standards. Companies that are non-reporting entities must adhere to certain Australian Accounting Standards, in accordance with the requirements of Chapter 2M of the Corporations Act 2001.

Australia adopted International Financial Reporting Standards (IFRS) on 1 January 2005.

The Financial Reporting Council’s (FRC) directive to the Australian Accounting Standards Board (AASB) has resulted in the adoption of IFRS through the Australian equivalents of International Financial Reporting Standards (AIFRS). This ensures greater transparency and understanding of financial reports between nations.

Accounting records

Small proprietary companies

A small proprietary company does not have to prepare an annual financial report or have it audited in accordance with the *Corporations Act 2001*, unless:

- It has resolved to apply for relief under Class Order 98/0098 and filed a Form 384 within the prescribed time limit
- It is requested to do so by shareholders holding at least five per cent of voting shares in the company
- It is requested to do so by ASIC
- It is controlled by a foreign company except where the parent company (which must be an Australian company or a registered foreign company) lodges a consolidated financial

report covering the Australian subsidiaries

- It is a disclosing entity

Large proprietary companies

A large proprietary company must prepare a financial report and have it audited. The audited report must then be lodged with ASIC.

Foreign companies operating in Australia

When a foreign company has a presence in Australia, it must register with ASIC as a registered foreign company at a cost of AUD457⁴.

These registered foreign companies must lodge a statement of financial performance, statement of financial position and a statement of cash flows with ASIC on an annual basis. This incurs an annual filing fee of AUD1,139⁵. This can be lodged in the foreign company’s place of origin. However, ASIC has the power to request information be prepared under Australian Accounting Standards.

Audit requirements

The reporting requirements for proprietary (private) companies differ between small and large proprietary companies.

A small proprietary company is a company that satisfies at least two of the following tests:

- The consolidated gross operating revenue for the financial year of the company and the entities it controls (if any) is less than AUD25 million
- The value of the consolidated gross assets at the end of the financial year of the company and the entities it controls (if any) is less than AUD12.5 million

- The company and the entities it controls (if any) have fewer than 50 employees at the end of the financial year

Large proprietary companies must prepare and lodge audited financial statements with ASIC. Small companies are only required to do this in certain circumstances such as if they are requested by ASIC.

Relief from audit is available for large and small proprietary companies that are controlled by a foreign company, subject to meeting certain conditions.

All listed and public interest entities are subject to audit and filing requirements. This includes holders of financial service licences.

³ Current as at 12-02-2015 Where uis this???

⁴ Ibid

⁵ ?????????

Trade

Foreign Direct Investment

The Foreign Investment Review Board (FIRB) approves most foreign investment in Australia unless the investment is judged to be contrary to national interest. Foreign acquisitions and takeovers legislation applies to most examinable proposals and provides penalties for non-compliance. The FIRB Monetary Thresholds apply in either the US or non-US categories.

All proposed acquisitions involving the following must be reported to the FIRB irrespective of the value or nationality of the investor:

- Vacant non-residential land
- Residential real estate (some exceptions apply)
- Shares/units in urban land corporations or trust estates
- Direct investments by foreign governments or their agencies

For all other acquisitions involving non-US and non-New Zealand investors, the FIRB Monetary thresholds are:

- Over AUD5 million for developed non-residential commercial real estate where the property is subject to heritage listing
- AUD54 million or more where the property is not subject to heritage listing
- Over AUD248 million for an interest in an Australian business

For all other acquisitions involving US and New Zealand investors, the FIRB Monetary thresholds are:

- Over AUD248 million for an interest in Australian business where the business operates in sensitive sectors as listed in the Australia-United States Free Trade Agreement (AUSFTA) or where

the acquirer is controlled by the US government

- Over AUD1,078 billion for all of the following:
 - An interest in an Australian business not operating in a sensitive sector under AUSFTA where the acquirer is not controlled by the US government
 - Developed non-residential commercial real estate where the acquirer is not controlled by the US government

Sensitive sectors under the AUSFTA include:

- Media
- Telecommunications
- Transport and transport infrastructure
- Suppliers of training, human resources, military goods or equipment to the Australian military
- Suppliers of equipment or technology able to be used for military purposes
- Development, manufacture or supply of encryption, security technology and communications systems
- The extraction of uranium or plutonium
- The operation of nuclear facilities

Generally speaking, the Australian Government raises no objections to proposals above the notification thresholds where the relevant total assets/total investment is below AUD53 million.

Investment is restricted in some categories of real estate, banking, civil aviation, airports, shipping and telecommunications. Non-residents are generally only able to acquire residential property where the

Temporary residents can acquire existing residential property on the proviso they sell the property when they return home



property is new or in cases of vacant land being sold with a non-resident who intends to develop the land. Sales of 'off the plan' residential property are usually permitted where no more than half of the development is purchased by non-residents. Temporary residents can acquire existing residential property on the proviso they sell the property when they return home.

Government incentives

Financial incentives are available to exporters, or potential exporters to:

- Develop export markets
- Provide export credit insurance
- Provide general consultancy and advisory services

Such incentives include taxable cash grants under the Export Market

Development Grants (EDMG) scheme to Australian residents who seek out and develop overseas export markets for their goods, specified services, industrial property rights and/or know-how.

The Export Finance and Insurance Corporation (EFIC) offers a wide range of insurance, guarantee and finance facilities to Australian exporters that are not generally available to commercial enterprises.

Austrade is a government agency that provides investment services to Australian companies and to international buyers and investors. Some of the services it provides to international investors are:

- Provides information on the country's investment environment and opportunities

- Assists international companies to source goods and services from Australia
- Identifies investment projects and alliance possibilities
- Assists with investment approval process
- Supports feasibility studies

Imports

Import and export controls

Tariffs and anti-dumping measures exist, although Australia has recently entered into free trade agreements with:

- China
- United States of America
- Singapore
- Thailand

Finance

Capital markets

Australia has a number of capital raising mechanisms that can be accessed through the utilisation of various capital markets including:

- Equity markets
- Hybrid security markets
- Futures markets

The primary Australian equity market is the Australian Securities Exchange (ASX), which has a public database of over 2,000 companies. The current domestic market capitalisation of companies listed on the ASX is around AUD1.5 trillion.

Entities seeking quotation on the ASX must comply with either a net tangible assets test, market capitalisation test or a profit test and meet the following conditions:

- Number of shareholders: spread of at least 500 public shareholders with a minimum holding of AUD2,000 each or 400 public shareholders with a minimum holding of AUD2,000 each and in aggregate no less than 25 per cent held by unrelated parties
- Financial statements: financial statements for the last three financial years (if any), the half-year (if any) and a reviewed pro forma balance sheet
- Disclosure document: a prospectus or product disclosure statement (PDS) or, if the ASX consents, an information memorandum (IM)

Companies listed on the ASX are regulated by the ASX Listing Rules and the *Corporations Act 2001*.

Other capital markets

Australia has a domestic capital market comprising financial markets that facilitate the issue and trading

of debt and equity securities by resident companies in Australia. The domestic capital markets include a commercial paper market and a medium-term, fixed margin corporate debt market for a variety of instruments including bonds, or other financial instruments issued by companies, central and local Government utilities and state-owned enterprises.

Australia also has a formal futures market on the ASX that trades currency, interest rate contracts and options.

Banking system

Australia has a highly developed banking system with major Australian and international banks being well represented throughout the country. Banks offer cheque, direct transfer, internet, telephone and point of sale (EFTPOS) banking services.

ASIC has responsibility for market integrity and consumer protection as well as the regulation of investment banks and finance companies.

The Reserve Bank of Australia implements the Government's monetary policy with the aim of stabilising prices within a defined target inflation bracket that currently sits at two to three per cent per annum.

Insurance industry

The Australian insurance industry provides a diverse range of insurance to individuals and businesses ranging from property through to health and life insurance. The Australian Prudential Regulation Authority (APRA) is the prudential regulator of the industry, with licenses to write most classes of insurance being issued by APRA. The insurance industry is also

regulated by ASIC; its role is to ensure insurers operate efficiently, honestly and fairly.

This industry plays a fundamental role in the Australian economy, alleviating the public pressures from the shifting of financial claims from the private sector.

There has been substantial media attention focused on this industry lately, due to the recent float of Medibank Private, Australia's largest private health insurer. Other key players within this industry include QBE Insurance, Insurance Australia Group (IAG), Suncorp and Allianz.

Investment management industry

Australia's investment management industry is one of the fastest growing in the world, fuelled by the compulsory superannuation guarantee charge. The principal regulator is Australia Securities and Investment Management (ASIC), who is responsible for registration, licencing and compliance within Australia's financial sector.

Recognising the strategic importance of financial services, a number of reforms have been implemented to position Australia as a major financial services centre within the Asia Pacific region. Participants in the industry include Commonwealth/Colonial Group, Macquarie Bank Group and BT Financial Group.

Infrastructure

Australia's buoyant economy, growing population and increasing freight volumes are creating high demand for new infrastructure and opening up major opportunities for international investment. Infrastructure is important for Australia because of its size, the geographical dispersion of its population and production centres, and its remoteness from other markets.

Infrastructure development is a priority for the Australian Government, which welcomes foreign investment. The country's strong economic credentials, transparent business environment and substantial pipeline of projects provide the ideal conditions for companies to finance, construct, own and operate major infrastructure assets.

The Government has committed AUD50 billion for a capital program to upgrade the country's transport network between 2013/14 and 2019/20 onwards. Contributions from state and territory governments and the private sector will bring the total value of infrastructure investment to AUD125 billion. Infrastructure represents a significant sector in the Australian economy, with over AUD5.2 billion of capital expenditure relating to infrastructure projects in the 2013/2014 financial year.

In some cases, the cost of using the service provided by an infrastructure asset is borne by the users of the service and not by the taxpayer.

Key stakeholders in the industry include Federal Government, State Governments, private sector, Infrastructure Australia and the Regional Infrastructure Fund.

The private sector has played a critical role in helping develop, construct and fund Australia's major infrastructure. The private sector's contribution to the country's infrastructure has grown from 15 per cent in 1990 to 50 per cent in 2012. As Australia looks to build new infrastructure, renew ageing facilities and privatise assets, international firms can choose from a wide range of investment opportunities and partnership and investment structures.

Public Private Partnerships

Australian governments have a 25-year history of embracing Public Private Partnerships (PPPs). PPPs first gained popularity in Australia during the late 1990s, and since then the number and size of PPP transactions have experienced strong growth.

Essentially, PPPs are a procurement method and form of transaction involving private sector delivery of assets and services to the public sector. PPPs involve a contract between a public sector authority and a private party, in which the private party provides a public service and assumes substantial financial, technical and operational risk in the project.

Since the earliest PPPs projects in the late 1980's, approximately 127 PPPs have developed more than AUD60 billion of new roads, rail, water facilities, energy assets, defence housing, hospitals and schools across Australia. Currently approximately 22 Partnerships Victoria projects are in existence valued at approximately AUD11.5 billion in capital investment.

PPPs entail a number of benefits for the economy as a whole, including:

- Reducing initial capital cost for government and providing capacity to accelerate infrastructure delivery
- Enabling outsourcing of maintenance and asset management to ensure facilities stay in near new condition
- Enabling optimal risk transfer to the party best able to manage particular risks (eg risk analysis process)
- Encouraging innovation and continuous improvement from the private sector participants in delivery of assets and services
- Creating "value for money" propositions for both end users as well as the Government

Privatisations

Australia has a strong track record of opening up public assets for privatisation. Since the 1990s, Australian governments have selectively divested existing infrastructure assets to "recycle capital" for new infrastructure projects or to reduce Government debt. The next infrastructure boom will be dominated not by brownfield or greenfield development but by asset disposal programs. The bulk of disposals will be the privatisation of state-owned assets.

Asset sales have included seaports and airports, electricity transmission and distribution, gas pipelines, water, rail and telecommunications. Recent privatisations include Hobart Airport, Port of Brisbane, Queensland Rail, the Sydney Desalination Plant, Port Botany, Port Kembla and Port of Newcastle. A 2012 study by Infrastructure Australia identified up to AUD219 billion in publicly owned assets that could potentially be privatised.

Country profile

Capital City	Canberra
Area	7.6 million sq. km
Population	24 million
Language	English is the national language. However, due to Australia's multicultural population, 21.5 per cent of the population fluently speaks a language other than English at home.
Currency	Australian Dollar (AUD)
International dialling code	+ 61
National Holidays 2015	1 January – New Year's Day 26 January – Australia Day 3 April – Good Friday 6 April – Easter Monday 25 April – ANZAC Day 25 December – Christmas Day 26 December – Boxing Day
Business and Banking hours	Business – 09:00 to 17:00 Monday to Friday Banking – 09:30 to 16:00 Monday to Friday
Stock exchanges	Australian Stock Exchange
Political structure	Federal Constitutional Parliamentary Democracy and Constitutional Monarchy
Doing Business rank 2015	10

Ease of Doing Business

Topics	2015 rank	2014 rank	Change in rank
Starting a business	7	7	No change
Licenses and Permits	19	19	No change
Getting Electricity	55	49	-6
Registering property	53	53	No change
Financing	4	3	-1
Protecting Investors	71	70	-1
Paying Taxes	39	36	-3
Trading Across Borders	49	45	-4
Enforcing Contracts	12	12	No change
Resolving Insolvency	14	15	1

Source: World Bank Group (Doing Business)

This document is issued by HSBC Bank plc. (the Bank). This guide is a joint project with Grant Thornton. It is not intended as an offer or solicitation for business to anyone in any jurisdiction. It is not intended for distribution to anyone located in or resident in jurisdictions which restrict the distribution of this document. It shall not be copied, reproduced, transmitted or further distributed by any recipient. The information contained in this document is of a general nature only. It is not meant to be comprehensive and does not constitute financial, legal, tax or other professional advice. You should not act upon the information contained in this document without obtaining specific professional advice. Whilst every care has been taken in preparing this document, the Bank and Grant Thornton makes no guarantee, representation or warranty (express or implied) as to its accuracy or completeness, and under no circumstances will the Bank or Grant Thornton be liable for any loss caused by reliance on any opinion or statement made in this document. Except as specifically indicated, the expressions of opinion are those of the Bank and are subject to change without notice. The materials contained in this document were assembled in January 2015 and were based on the law enforceable and information available at that time.

Grant Thornton refers to the brand under which the Grant Thornton member firms provide assurance, tax and advisory services to their clients and/or refers to one or more member firms, as the context requires. Grant Thornton International Ltd (GTIL) and its member firms are not a worldwide partnership. GTIL and each member firm is a separate legal entity. Services are delivered by the member firms. GTIL does not provide services to clients. GTIL and its member firms are not agents of, and do not obligate, one another and are not liable for one another's acts or omissions. This publication has been prepared only as a guide. No responsibility can be accepted by GTIL for loss occasioned to any person acting or refraining from acting as a result of any material in this publication.

HSBC retains all responsibility for the translation of the content of this guide.