

DOING BUSINESS IN AUSTRALIA

2025



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This Guide has been prepared by Grant Thornton for the purposes of providing a high-level general overview of the business environment in Australia for the information of businesses who may be interested in transacting or investing in Australia. Any transaction or investment in Australia, however, should only be undertaken based on professional advice specific to such transaction or investment.



Our guide to ‘Doing Business in Australia’ provides insights for foreign investors considering undertaking business in this country.

Introduction

Whether you’re opening a business for the first time or looking to expand, Australia is one of the most attractive business locations in the world with a relatively deregulated and open economy. Australia welcomes dynamic foreign investment and provides investors with a stable political and economic environment. Australia offers opportunities from diverse industries as well as a skilled and multilingual workforce.

The Australian economy

Australia boasts the world’s 13th largest economy by gross domestic product and is expected to outperform other advanced economies over the next five years¹.

In 2023, Australia was home to just 0.3 per cent of the world’s population, while accounting for 1.7 per cent of the global economy.

Like other nations, Australia withstood the impacts of economic instability and inflation since the pandemic in 2020. While the Australian economy is resilient and rebounding, inflation has remained higher for longer than expected.

Close ties with Asia

Multinational businesses view Australia as a strategic centre for their operations in the Asia-Pacific region. Most of Australia’s principal export partners are in Northeast Asia and Southeast Asia, and a network of 18 free trade agreements gives Australian companies preferential access to these fast-growing markets. Australia’s main trading partners include Japan, USA, China, South Korea, New Zealand and the United Kingdom.

Australia is well positioned to grow its resources, energy, agriculture, and education and tourism services exports to Asia-Pacific’s booming middle-class. This group is projected to grow to 3.5 billion by 2030 and will continue to be a growing middle-class consumer population in the global economy.

For businesses looking to expand, Australia offers a variety of opportunities and industries for investment. This guide has been developed to help businesses navigate the Australian landscape and 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 those wishing to invest in Australia should seek legal advice.

¹ Digital Benchmark Report 2024 – Austrade The information in this publication is current at November 2024.

Country profile

CAPITAL CITY

Canberra

AREA

7.6 million sq km

POPULATION

27.1 million

CURRENCY

Australian Dollar (AUD)

INTERNATIONAL DIALING CODE

+61

LANGUAGE

English

is the national language. However, due to Australia's multicultural population, 24.8 per cent of the population speaks a language other than English at home.

BUSINESS AND BANKING HOURS

09:00 to 17:00 (Monday to Friday)

STOCK EXCHANGE

**Australian Securities Exchange
(ASX)**

POLITICAL STRUCTURE

**Federal Constitutional
Parliamentary Democracy and
Constitutional Monarchy**



Public holidays

- ›  1 JANUARY
New Years Day
- ›  26 JANUARY
Australia Day
- ›  18 APRIL *
Good Friday
- ›  21 APRIL *
Easter Monday
- ›  25 APRIL
ANZAC Day
- ›  9 JUNE
King's Birthday
- ›  25 DECEMBER
Christmas Day

Each State or Territory also has state-based holidays. For specific information, view the relevant State Government website.

* Date provided is for 2025 and varies from year to year.

Legal overview

Political and legal system

The Australian political and legal system is very stable, as both a representative democracy and a constitutional monarchy based on the British Westminster system. Australia has a federal system of government split into three divisions – Commonwealth, State/Territory and Local Governments, and is divided into a federation of six states (New South Wales, Queensland, South Australia, Tasmania, Victoria and Western Australia) and two territories (Australian Capital Territory and the Northern Territory).

Australian law (both State and Federal) is sourced from the Constitution, statute and common law.

The Australian legal system was developed from British law; however unlike Britain, Australia has a written Constitution which divides the powers of the government into three branches: the Legislature, the Executive and the Judiciary.

Federal Parliament is divided into a 'lower' house (House of Representatives) and an 'upper' house (Senate). Its responsibilities include (but are not limited to) foreign affairs, immigration, social security, communications, collection of income tax, defence, trade practices, 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 also has their own Parliament and Constitution.

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

While Australia is an independent country, as a part of the Commonwealth Australia's Head of State is the King of Australia, King Charles III of Great Britain. He has the power to appoint a Governor-General who advises the elected government and represents him. Although the Governor-General has a wide range of powers, generally they act only on the advice of ministers. There are six State Governors that perform similar duties in their respective States. While Australian Territories don't have a Governor-General, the Northern Territory has an Administrator who is appointed by the Governor-General.

The legal system of courts operates at both Commonwealth and State level. Judicial power of the Commonwealth is vested in the High Court of Australia. In addition, all States have a Supreme Court and their own court systems, with the High Court of Australia as the ultimate superior appellate court. Law enforcement responsibilities are shared between the Federal and State police forces.

Data protection

Privacy legislation regulates the manner in which private sector organisations and Australian Government Agencies can collect, use, retain, transfer, secure and disclose personal information.

The main regulation is the Privacy Act 1988, although 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 AUD \$3m per year or that trade in personal information, provide a health service or holds health information
- Australian Government Agencies 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, to ensure that data is processed properly.

In summary, the principles cover the following:

1

Open and transparent management of personal information

2

Anonymity and pseudonymity

3

Collection of solicited personal information

4

Dealing with unsolicited personal information

5

Notification of the collection of personal information

6

Use or disclosure of personal information

7

Direct marketing

8

Cross-border disclosure of personal information

9

Adoption, use or disclosure of government related identifiers

10

Quality of personal information

11


Security of personal information

12

Access to personal information

13

Correction of personal information collecting their personal and sensitive 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 to be sensitive information.

Sensitive information 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. Reasonable steps must be taken to ensure the security of personal information. 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 those governing the telecommunications sector or health and medical research.

Additionally, the Corporations Act 2001 (Corporations Act) and Prudential Standards issued by the Australian Prudential Regulation Authority (APRA) impose a number of obligations on financial services businesses relating to data security and data management.



Notifiable Data Breaches (NDB)

A data breach occurs when personal information an organisation or agency holds is lost or subjected to unauthorised access or disclosure.

Under the NDB scheme any entity covered by the Privacy Act 1988 must notify affected individuals and the Office of the Australian Information Commissioner (OAIC) when a data breach has occurred and is likely to result in serious harm to an individual whose personal information is involved.

An entity must take all reasonable steps to complete an assessment within 30 calendar days after the day the entity became aware of the grounds (or information) that caused it to suspect an eligible data breach has occurred. The notification to individuals must include recommendations about the steps they should take in response to the data breach.

Whistleblowers

The Corporations Act 2001 and the Tax Administration Act 1953 are aimed at protecting whistleblower confidentiality and protecting them from persecution reprisals for the act of making a whistleblower report. These protections are designed to encourage people within companies, or with special connections to companies, to alert the Australian Securities and Investments Commission (ASIC) and other authorities to illegal behaviour.

Entities subject to whistleblower protection laws are required to have a whistleblowing policy in place. Companies need to protect a range of potential whistleblowers from victimisation including former employees. To qualify for these protections the whistleblower need not have acted in good faith in making their allegations.

Eligibility for protection depends on the requirements of the applicable legislation and the subject matter of the disclosure.

Personal Property and Securities Act

The Personal Property Securities Act 2009 (PPSA) is a comprehensive framework that governs security interests in personal property within numerous jurisdictions. Its primary aim is to provide a clear and consistent set of rules regarding the creation, priority, and enforcement of security interests in personal property. This legislation is pivotal in ensuring that creditors have a reliable means of securing their interests in the assets of debtors and that these interests are transparently disclosed and prioritised.

What is a Security Interest?

A security interest under the PPSA is defined as an interest in personal property that secures payment or the performance of an obligation. Essentially, it is a legal right granted by a debtor to a creditor over the debtor's property, which assures that the creditor will be compensated in the event the debtor fails to fulfill their obligations. This right can be enforced by the creditor to recover the owed amount or ensure the completion of the specified performance.



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.

PPSA scope

Personal property, as covered by the PPSA, encompasses virtually all forms of tangible and intangible assets owned by any legal entity, excluding real property (land and buildings). The Act's extensive scope includes a wide array of assets, ensuring that various types of property can be used to secure obligations. Common examples of personal property that fall under the PPSA include:

- Motor vehicles: Cars, trucks, motorcycles, and other vehicles used for personal or commercial purposes.
- Household goods: Items such as furniture, appliances, and electronics owned by individuals or families.
- Business inventory: Goods held for sale or lease, raw materials, and work-in-progress items owned by businesses.
- Intellectual property: Non-physical assets such as patents, trademarks, copyrights, and trade secrets.
- Company shares: Ownership interests in corporations, representing a claim on part of the company's assets and earnings.

Importance of the PPSA

The PPSA plays a critical role in modern commerce by providing a transparent and efficient system for registering and prioritising security interests. This system ensures that creditors have a clear understanding of their rights and the hierarchy of claims in the event of a debtor's insolvency. Additionally, it aids in reducing the risk associated with lending and borrowing, thereby facilitating smoother financial transactions and fostering economic growth.

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 an 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 international cash transactions in excess of AUD\$10,000.

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 sanctions are 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 aligns it 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 providing a designated service to a customer that may facilitate money laundering or terrorism financing.

In December 2024, the Australian government passed legislation to amend the AML/CTF Act to capture accountants, real estate agents, lawyers, and conveyancers. The reforms also impact existing reporting entities and their reporting obligations, governance arrangements, and AML/CTF documentation amongst other matters. The AML/CTF Amendment Act 2024 will come into effect from 31 March 2026 for existing reporting entities, and from 1 July 2026 for new reporting entities.

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. Civil penalties for body corporates must not exceed 100,000 penalty units and civil penalties for individuals must not exceed 20,000 penalty units.

Modern Slavery regulation

In 2018, the Australian Government passed the Commonwealth Modern Slavery Act 2018 (the Act), which entered into force on 1 January 2019. The Act establishes a national Modern Slavery reporting requirement for entities with consolidated revenue of \$100m or more. The legislation affects around 3,000 large Australian organisations and follows similar legislation that was passed in the UK in 2015 and that of other jurisdictions around the world.

Organisations must prepare an annual Modern Slavery Statement identifying risks of modern slavery in their operations and supply chain and what actions they have taken to address these risks. To date, the quality and consistency of reporting varies considerably amongst reporting entities. It is also interesting to note businesses not required to report have been asked by reporting entities to provide similar statements / assurances over their supply chain to assist the reporting entity to meet its obligations. Modern Slavery Statements are publicly available on the Modern Slavery Statement Register.

In June 2023, the review of the Act was tabled in Parliament which included 30 recommendations to strengthen the Act. Recommendations include lowering the reporting threshold to \$50m, and the introduction of penalties for non-compliance with reporting requirements. A response by the government to the recommendations was tabled in December 2024.

Payment Times Reporting regulation

The Payment Times Reporting (PTR) Scheme commenced on 1 January 2021. It applies to organisations with an annual income of over \$100m. The purpose of the scheme is to provide transparency over how large business conduct payments, allowing small businesses to decide who to engage with, and providing incentive and an environment to improve payment times and practices.

Reporting entities must provide a payment times report twice a year, one for each reporting period. Payment times reports are due every six months of a reporting entity's income year. Statistics reported are publicly available on the Payment Times Reporting Regulator website.

The Payment Times Reporting Regulator has rights under the legislation to conduct audits into reports submitted. A failure to report, provide false or misleading reports, failure to keep records, failure to comply with audit notice, or failure to reasonably assist the auditor can all result in a penalty to either an individual or to a body corporate.

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	<p>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.</p> <p>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.</p>
Infringements	<p>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.</p> <p>Legal actions against copyright infringement can be complicated by the number of different types of copyright that can apply across a piece of work.</p>
Duration	<p>Copyright is enforceable as follows:</p> <ul style="list-style-type: none">• 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

Trademarks

A trademark 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 trademark 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	<p>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.</p>
Duration	<p>P10 years (can be renewed in successive periods of 10 years).</p>

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>

Design

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 entity or individual wanting to do business in Australia will need to decide the form by which they want to operate. There are many business structures available in Australia including:

- Sole trader
- Partnership
- Trust (discretionary, fixed or hybrid)
- Limited liability companies
- Foreign company operating a branch in Australia
- 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 private company is a company that is limited by shares or an unlimited company that has the following:

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

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

The main features of public and proprietary (private) 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

The following are also required under both forms of company:

- 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

Director Identification Numbers

Under the Director Identification Number (DIN) system, it is a requirement that all company directors (including foreign directors) appointed on or after 5 April 2022 obtain a DIN from the Australian Business Registry Service (ABRS). This can be a time-consuming process. Foreign directors are required to lodge a paper application and provide:

- A certified copy of one primary document, such as a foreign passport or birth certificate, and
- A certified copy of one secondary document, such as a drivers licence or a national photo identification card.
- The Australian Business Registry Service (ABRS) requires the original versions of the certified documents and should process within 28 business days following receipt. Whilst the same documents are required for the Director ID and the tax registrations, separate certified copies are required for each Government agency.



Formation

To incorporate a proprietary company, directors 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 ASIC. This application must contain the registered office and principal place of business, the share structure, the shareholders and the proposed directors and/or secretary.

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

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

- Company name
- Company details
- Company constitution
- Director's 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).

Proof of Identity for Tax File Number and Australian Business Number registrations

Australian companies are required to register for income tax by obtaining a Tax File Number (TFN) and appointing a public officer. The company should also obtain other Federal registrations such as an ABN, register for Goods and Services Tax (GST) and, Pay As You Go (PAYG) Withholding as required (the applications for these registrations can all be completed on the same form).

There are specific proof of identity requirements for non-resident shareholders and directors, including:

- Non-resident corporate shareholders are required to provide a certified copy of a certificate of incorporation or registration from the relevant authority in its country of origin.
- Non-resident directors (and individual shareholders if applicable) are required to provide a certified copy of their passport and either their drivers licence or national photo identification card.

The ATO require the original versions of the certified documents and generally process within 28 business days following receipt.

Capital stock and shareholders

Private companies are only required to have one shareholder as a minimum, with a maximum of 50 shareholders. 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

The requirements for audits are set up under the Reporting section on page 28.

Each company will 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 AUD\$321 for proprietary companies and AUD\$1,492 for public companies².

Dissolution

A company is dissolved by a process known as a ‘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 AUD\$1,000 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 ABN must be obtained from the Australian Business Register website. ABNs 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 and pay a fee of AUD\$597³.

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 the foreign company’s annual accounts and comply with any other applicable reporting requirements. The annual filing fees for foreign companies operating a branch in Australia is AUD1,485.

Local subsidiaries (wholly-owned companies)

Foreign companies and individuals can 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 Venture

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 is held by a trustee for the benefit of certain beneficiaries. The trustee oversees the running of the trust, which must comply with the rules of the trust deed. The most common types of trust are discretionary, fixed or hybrid trusts. Discretionary trusts provide the trustee with flexibility with respect to the distribution of income and capital to the beneficiaries outlined in the trust deed. A fixed trust (commonly a unit trust) must distribute income and capital to the unit holders in fixed proportions to their holdings. A hybrid trust is a combination of the discretionary and unit trusts generally providing fixed entitlements to income but discretionary rights to capital.

Income that is retained in a trust is generally taxed at Australia’s highest individual marginal rate of tax.

³ <https://asic.gov.au/for-business/payments-fees-and-invoices/asic-fees/fees-for-commonly-lodged-documents/>



Directors duty to prevent insolvent trading

In Australia, under section 588G of the Corporations Act directors have a duty to prevent their company from trading while insolvent. Key responsibilities for a director include:

Monitor solvency: Directors must actively monitor the company's financial status to ensure it remains solvent. This involves keeping accurate financial records and regularly reviewing financial statements.

Investigate financial difficulties: If there are signs of financial trouble, directors must investigate and understand the extent of the company's financial difficulties. This includes identifying indicators of insolvency such as ongoing losses, overdue taxes, and difficulties obtaining finance.

Seek professional advice: Directors should seek advice from qualified professionals, such as accountants or insolvency practitioners, when they suspect the company may be insolvent. This helps in making informed decisions and demonstrates that the directors are taking responsible steps.

Act in a timely manner: Directors must act promptly if they suspect the company is insolvent. This may involve restructuring the company, negotiating with creditors, or, if necessary, initiating voluntary administration or liquidation.

Safe harbour protection: Directors can seek protection under the safe harbour provisions if they are developing a course of action that is reasonably likely to lead to a better outcome for the company than immediate liquidation. This involves documenting the steps taken and ensuring they are in the best interests of the company.

These duties are designed to protect creditors and ensure that directors act responsibly to avoid the serious consequences of insolvent trading. For more detailed guidance, you can refer to the updated Regulatory Guide RG 217 by ASIC.

Tax system

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

There are many forms of taxation in Australia, including:

Federal taxes

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

State taxes

- Stamp duty
- Payroll tax
- Land tax

Overview

- The main categories of taxpayers are individuals, companies and trusts
- 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 the satisfaction of certain requirements for companies and trusts
- 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 general Australian CIT rate is 30 per cent. However, Australia has a two-tiered CIT consisting of a standard rate of 30 per cent and a 'Base Rate Entity' company tax rate subject to an 80 per cent active income requirement and having less than a maximum turnover threshold as follows:

Income Year	Aggregated turnover threshold	Tax rate for base rate entities under the threshold	Tax rate for all other companies
2017-18	\$25m	27.5%	30.0%
2018-19 to 2019-20	\$50m	27.5%	30.0%
2020-21	\$50m	26.0%	30.0%
2021-22 and future years	\$50m	25.0%	30.0%

Australian tax resident companies are subject to CIT on their Australian-sourced and foreign-sourced income (i.e. worldwide income). A company is classified as an Australian resident if any of the following circumstances applies:

- It is incorporated in Australia
- If not, it carries out business in Australia and has either its central management and control in Australia, or
- Its voting power is controlled by shareholders who are residents of Australia.

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-sourced passive income (i.e. 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.

Australia also imposes a complex controlled foreign entity regime for Australian tax residents with certain ownership interests in non-resident companies, trusts and partnerships to ensure, broadly, that passive income shifted offshore cannot be sheltered from Australian tax (temporarily or permanently).

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 deducting eligible deductions from assessable income. If deductions exceed assessable income, the taxpayer incurs a tax loss, which can generally be carried forward and claimed as a deduction against income in a future year. Additional rules affect the calculation and absorption of tax losses.

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 that 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 generally not deductible.

Depreciation

The cost of acquiring plant and the cost of constructing buildings/capital works used in gaining or producing assessable income are allowable as tax depreciation and capital allowance deductions respectively. The tax depreciation or capital allowance rate is specifically prescribed under the tax laws for capital works and certain items of plant. If not prescribed by legislation, the depreciation rate can be determined based on useful life, which is either self-assessed or based on Australian Tax Office published guides.

The Australian Government introduced temporary measures allowing most businesses to full expense the cost of acquiring plant as a response to the COVID-19 pandemic. These measures apply for plant acquired by and first used or installed ready for use by 30 June 2023.

Administration

The Australian tax year runs from 1 July to 30 June, but substituted accounting periods may be allowed, particularly when the company is associated with a non-resident parent company.

Companies must generally file their annual tax returns in compliance with the ATO lodgement and payment program. The lodgement and payment due dates for companies can vary according to their size and whether the company was in a tax payable or refundable position in the prior year.

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 taxes, including payment of company tax instalments and withholding of tax from employees salary. Reporting periods vary from monthly, quarterly or yearly depending predominantly on the size of the organisation.

Tax Consolidated Groups (TCG)

Australia has a tax consolidation regime whereby a single Australian head company (or certain trusts taxed as companies) and its 100 per cent owned corporate subsidiaries (including certain trusts) can elect to form a TCG. General benefits of forming a TCG include:

- Reduced compliance costs through the lodgement of one tax return
- Transfer of losses amongst members
- The ability to ignore all intra-group transactions for income tax purposes



Thin capitalisation rules

Australia has a Thin Capitalisation (TC) 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 a certain limit. These rules were amended effective from 1 July 2023 to introduce new earnings-based tests (including a third-party debt test) to replace the existing asset-based rules.

The Australian TC rules apply where:

- Total annual associate inclusive debt deductions exceed AUD \$2m
- The Australian entity is either controlled by a foreign entity (inward investor) or controls foreign entities (outward investor), and
- The entity is an Australian entity with overseas operations or investments, or an associate of such an entity, that is also not foreign controlled, it does not meet an assets threshold test (i.e. it is excluded from the TC rules if its Australian assets are equal to or exceed 90 per cent of its total assets).

Generally, the rules deny debt deductions under one of the three alternative tests:

- Fixed ratio test – which limits net debt deductions to 30 per cent of EBITDA measured on a tax basis
- Group ratio test – based on the proportion of group net third party interest expense to group (EBITDA)
- Third-party debt test – which replaces the arm's length debt test and limits debt deductions other than those relating to third-party debt interests that meet certain conditions.

For Authorised Deposit-taking Institutions (ADIs), the debt limitation threshold is determined by reference to a Minimum Capital Amount which in turn is the least of three alternative tests:

- the safe harbour capital amount
- the arm's length capital amount, or
- the worldwide capital amount, which is only available to Australian ADI entities that are not foreign controlled.

Where the debt limitation levels are breached, debt deductions will be denied in the ratio of the excess. In certain circumstances, carry forward of excess deductions to be used against Future Taxable Income (FRT) is allowed up to 15 years if the FRT is applied.

Effective from 1 July 2024 the TC regime also includes new debt deduction creation rules that will apply to deny debt deductions for entities with associate inclusive debt deductions exceeding AUD \$2m for an income year in respect of related party debt created in connection with certain acquisitions, payments or distributions from associate entities. The assets threshold test exclusion does not apply to the debt deduction creation rules.

Losses

Whilst revenue and capital losses can be carried forward indefinitely, the company must satisfy either the continuity of ownership test or failing this, a Business Continuity Test (incorporating a Similar Business Test). Groups that do not form a tax consolidated group for Australian tax purposes cannot transfer losses. In addition, there are complex rules for the carrying forward and utilising of losses incurred by trusts.

OECD Pillar Two implementation

On 10 December 2024, the bills containing the Australian Pillar Two rules were given royal assent and are now effective as law in Australia. The Australian Pillar Two rules align with the OECD's global initiative to establish a minimum tax rate of 15 per cent for large multinational enterprises (MNEs).

Per the legislation:

- The Income Inclusion Rule and the Domestic Minimum Tax will apply to fiscal years starting on or after 1 January 2024.
- The Undertaxed Profits Rule will apply to fiscal years starting on or after 1 January 2025.
- These rules are separate to the Australian income tax laws.

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 the company on the distributed income.

Dividends paid by Australian resident companies are franked with an imputation credit and 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 dividend withholding tax rate applies for unfranked dividends paid to non-residents. Double tax treaties may reduce the rate to 0 per cent, 5 per cent, or 15 per cent depending on the applicable treaty and the nature of the non-resident shareholder. No dividend withholding tax will typically apply to fully franked dividends.

Interest: a 10 per cent interest withholding tax 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, state and federal government bonds.

Royalties: a 30 per cent royalty withholding tax 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): distributions by a MIT to non-residents are generally subject to 30 per cent withholding tax. A reduced withholding tax rate of 15 per cent may apply to certain MITs (including a special type of MIT known as Attribution MITs or AMITs) where the non-resident's address or place of payment is in an 'information exchange country'. MIT that only holds newly constructed, energy-efficient commercial buildings may be eligible for a 10 per cent withholding tax rate. Integrity legislation in relation to MIT's deriving passive income such as rental income may deny certain MITs from achieving the concessional 15 per cent withholding tax rate on distributions to non-residents.



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

Transfer pricing

In Australia, related party transactions must be conducted under arm's length conditions. 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 arrangements.

The new law has incorporated the 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 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.

Country-by-country reporting standards

Australia has also implemented the OECD's Country-by-Country reporting standards from 1 January 2016 for those companies with global consolidated revenue of AUD \$1b or more. Under these new standards, the ATO will receive the following information on companies operating in Australia:

- A Country-by-Country report that shows information on the global activities of a multinational, including the location of its income and taxes paid
- A master file containing an overview of the multinational's global business, its organisational structure, and its transfer pricing policies
- A local file that provides detail about the local taxpayer's inter-company transactions

Tax incentives

Research and Development (R&D)

The R&D Tax Incentive is the Federal Government's flagship program to support and encourage innovation, research and development activities undertaken in Australia, accessed by around 13,000 companies each year. This support is not targeted at a particular industry or sector and the benefits are aimed at encouraging more R&D and innovation to be undertaken in Australia.

Under the current R&D legislation, where eligible R&D expenditure of more than AUD\$20,000 is incurred in an income year on eligible R&D activities, companies may be entitled to the following:

- **Refundable R&D Tax Offset:** For companies with an aggregated turnover of less than AUD\$20m:
 - Refundable tax offset equal to your Australian corporate tax rate plus an 18.5 per cent premium.
 - Potential to receive a cash refund.
- **Non-refundable R&D Tax Offset:** For companies with an aggregated turnover of more than AUD\$20m.
 - Non-refundable tax offset equal to your corporate tax rate plus an incremental premium based on R&D intensity.
 - R&D expenditure up to 2 per cent R&D intensity will receive a 8.5 per cent premium.
 - R&D expenditure above 2 per cent R&D intensity will receive a 16.5 per cent premium.
 - Tax saved (immediately or in the future, i.e. the non-refundable offset can be carried forward, with the net benefit being a minimum of 8.5 cents in the dollar.

There are detailed tax laws which need to be considered when claiming R&D. Some immediate matters to be aware of are:

- The grouping rules mean that companies are connected via a 40 per cent ownership/control test. This test is applied up the chain until it no longer applies. Understanding your shareholder base is crucial to determine any available R&D benefit.
- Is the IP associated with the R&D activities performed in Australia to be held in Australia or overseas? If overseas, what agreements do you have in place to substantiate this arrangement.

If you are doing R&D overseas and want to claim the costs under the R&D Tax Incentive, there are some additional eligibility requirements that need to be satisfied along with forms which need to be completed.

- You should also consider the broader income tax implications over the life of the activities in Australia e.g. if you are looking to exit, as well as the R&D tax offset.

Upcoming review of Australian Research and Development

The Australian Federal Government will be undertaking a strategic examination of the Australian R&D system. This review aims to enhance productivity and economic growth by strengthening the R&D framework. An independent panel will lead the review and provide recommendations. Key objectives include:

- Maximising the value of existing R&D investments
- Strengthening connections between research and industry
- Supporting national priorities and fostering new industries

The review will involve comprehensive consultations with various stakeholders, including industry, universities, and the public and is anticipated to conclude by December 2025. Although no specific modifications to the R&D Tax Incentive have been outlined, there could be changes based on recommendations made by the panel.

Other fiscal incentives

Tax incentives apply to the following:

- 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 and expenditure incurred for environmental protection purposes
- Capital expenditure for the investment in approved Australian films
- Capital expenditure incurred on the construction of new buildings used for the purpose of producing assessable income or for research and development purposes
- From 1 July 2016 investors in qualifying early-stage innovation companies (ESIC) are eligible for a 20 per cent non-refundable carry forward tax offset capped at AUD\$200,000 of the amount paid for their qualifying investments and modified capital gains tax treatment. There are restrictions on the level of the investment where the investor is not a 'sophisticated investor' under the Corporations Act 2001.

Tax avoidance measures for large multinationals

In addition to existing tough anti-avoidance measures to combat taxpayers entering into transactions for the sole or dominant purpose of obtaining tax benefits, in December 2015 new additional anti-avoidance measures were passed into law to address multinational tax avoidance by 'significant global entities' (broadly an entity that is part of a group with global revenue of AUD \$1b or more). These rules apply from income years beginning 1 January 2016 and include:

- New transfer pricing documentation standards (see above for more information)
- Doubling of the maximum administrative penalties that can be applied to large companies that enter into tax avoidance and profit shifting schemes (applicable to income years commencing on or after 1 July 2015), and
- Targeted anti-avoidance rule aimed at multinationals that enter into arrangements that artificially avoid having a taxable presence in Australia.

Specifically, this measure ensures that profits from Australian sales are taxed in Australia from 1 January 2016 where the activities of an Australian associated entity support the making of those sales, and the profit from the Australian sales is booked overseas and is not attributable to a private entity of the foreign entity in Australia. A principal purpose of entering into the arrangement must be to create a tax benefit.

Australia also introduced hybrid mismatch tax rules applying generally to cross border transactions occurring on or after 1 January 2019. These rules broadly follow the OECD hybrid mismatch and branch mismatch rules. These rules apply to transactions between related parties, control groups and under certain structured arrangements. They apply to 'neutralise' the tax benefits from hybrid arrangements by cancelling deductions or including amounts in assessable income. These rules do not have a de minimis or materiality threshold.

Personal Income Tax

Individuals liable to Australian Personal Income Tax (PIT)

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 residence outside Australia
- Persons who have been in Australia for more than 183 days in a year, unless their usual place of residence is outside Australia

Non-residents are generally 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 (CGT) purposes in that they are only subject to tax in respect of taxable Australian property.

For Capital Gains Tax 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.

However, a change in tax residency may also affect the tax residency of related entities, such as trusts, potentially leading to unintended consequences.



Tax rates 2024 / 25

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 for 2024–2025:

Resident taxpayer		Non-resident tax payer	
Taxable income (AUD)	Tax payable (AUD)	Taxable income (AUD)	Tax payable (AUD)
0 - 18,200	Nil	0 – 135,000	30% of amount
18,201 - 45,000	16% of amount over 18,200	135,001 – 190,000	40,500 + 37% of amount over 135,000
45,001 – 135,000	4,288 + 30% of amount over 45,000	>180,001	60,850 + 45% of over 190,000
135,001 – 190,000	31,288 + 37% of amount over 135,000		
>190,001	51,638 + 45% of amount over 190,000		



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 2 per cent of your taxable income, with the exemption of low-income earners. An additional surcharge up to 1.5 per cent may be imposed on high-income earners (and a fixed amount for each dependent child after the first in relation to couples) who are not covered by an appropriate level of private hospital insurance.

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 lodgment of a taxpayer's return or 21 days after a notice of assessment is given to the taxpayer, whichever is later.

Franked dividends

Individual shareholders who receive franked dividends from Australian companies are entitled to the benefit of a franking credit in order to reduce or eliminate the tax payable by shareholders on the dividends. Individual shareholders are entitled to refunds where the franking credit is greater than the individual's 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 GST is a value-added tax applied at each level in the supply chain and applies to most goods and services, with registered suppliers getting credits for GST on inputs acquired to make taxable or GST-free supplies.

Goods and services that have been designated as either 'GST-free' or 'input taxed' are not subject to GST, as summarised below.

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 GST turnover is AUD\$75,000 or more (AUD\$150,000 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 annually, monthly or quarterly. Monthly returns are compulsory in some situations, such as where the entity's GST turnover is AUD \$20m or more.

From 1 July 2017, GST was amended to apply to digital services and other intangibles delivered by non-residents, for use by Australian 'consumers'. These same services when delivered to Australian businesses may not attract GST. Referred to as the 'Netflix Tax', the amendments were in response to a wave of digital services (like Netflix, Stan, Spotify etc.) being delivered by businesses-to-consumers and not charging GST. Business-to-business transactions are not included in these rules to limit the friction when doing business in Australia.

As these overseas products now attract GST, vendors for these digital products are now required to register for GST.

To streamline this process the ATO introduced 'Simplified GST Registration' which allows non-residents to elect to be 'Limited Registration Entities' (LRE) which allows non-residents to complete BASs quarterly with less administration than required under full registration. Simplified registration does have consequences, LREs are unable to claim GST credits and cannot issue tax invoices.

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.

CGT is not levied as a separate tax, but rather capital gains are included in the taxable income of a taxpayer and subject to income tax.

All assets acquired after 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	<p>Subject to CGT on assets considered to be 'taxable Australian property', which includes:</p> <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	<p>Common exemptions for individuals can include:</p> <ul style="list-style-type: none">• Gains on an individual's main residence (Australian Tax Residents only from 1 July 2019 for properties acquired prior to 9 May 2017 and from 9 May 2017 for properties acquired on or after that date pending enactment of the legislation). Prior to those dates, the exemption applied to all resident and non-resident individual tax payers;• 50 per cent discount for assets held for more than 12 months (Australian Tax Residents only for assets acquired after 8 May 2012) <p>Other Exemptions for entities include concessions for gains made on certain eligible small business assets. Gains on assets sold or transferred within a tax consolidated group can also be disregarded.</p>
Rollovers	There are a number of rollovers that allow the relevant capital gain to be disregarded or deferred.
Capital losses	Capital losses are only deductible against capital gains.
Rate	<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> <p>The net capital gain of a corporate taxpayer is taxed at the prevailing corporate tax rate. 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 (including a former employee) in respect of employment. Payable by the employer, the benefits are exempt from income tax in the hands of the employee. 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 11.5 per cent (12 per cent from 1 July 2026) of an employee's ordinary time earnings into a superannuation fund. Employers who provide less than the 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.

The definition of employee is extended in certain circumstances to include contractors.

Customs duty

Customs duty is imposed on many goods imported into Australia at a rate of five per cent of the value of goods. 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.

Stamp duty

Stamp duty is a tax imposed by the eight State and Territory governments either at a fixed rate or in proportion to the value of the transaction or 'dutiable' property. Stamp duty is generally imposed on direct and indirect transfers of interests in 'land' (including shares in companies and units in unit trusts which hold land), mining and petroleum tenements, leases, things fixed to land, rights in relation to land or fixed infrastructure and in some jurisdictions, intangible business assets such as goodwill and intellectual property. Stamp duty rates differ among the jurisdictions, with the highest non-residential rate being 6.5 per cent and the highest residential rate being 7 per cent. Stamp duty concessions or exemptions may be available to eligible property types. A form of stamp duty is also payable on insurance policies and motor vehicle registration.

Land tax

All States and Territories (with the exception of Northern Territory) impose land tax, which is an annual tax primarily assessed to the owner of land, but can be secondarily assessed in some circumstances (eg beneficiaries of trusts). The tax is broadly levied on the unimproved value of taxable land. Land tax is subject to various thresholds and exemptions as provided under the legislation of each jurisdiction, with the largest exemptions being for a principal place of residence, farmland and charities.

Foreign surcharges

All States and Territories (with the exception of Northern Territory) impose a form of foreign surcharge either as an additional rate of stamp duty or an additional rate of land tax (or both). Foreign surcharges apply to individuals who are not Australian citizens, or who are foreign or foreign 'controlled' entities, noting that 'control' can be as small as 20 per cent and there are special rules for discretionary trusts. There are some exceptions for New Zealand citizens who are in Australia and Australian permanent residents. Surcharges often more than double the stamp duty or land tax which is otherwise payable by Australian citizens.

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.

Foreign Account Tax Compliance Act (FATCA)

In April 2014, the Australian government signed an Intergovernmental Agreement (IGA) with the United States in relation to the implementation of FATCA.

Australia has since enacted legislation to give effect to the IGA requiring Australian financial institutions to collect information about their customers that are likely to be taxpayers in the United States, and report that information to the ATO. The Australian Commissioner of Taxation will then pass this information on to the US Internal Revenue Service (IRS).

Australia's obligations under the agreement apply to FATCA 'reportable accounts' maintained on or after 1 July 2014.

Labour

Australian employment conditions

Australia has a well-developed employment system, designed to provide flexibility and certainty to both employers and their employees. This system is subject to Australian, and state and territory government requirements.

The central elements of this system include a set of national standards of employment for all Australian employees, occupational health and safety regulations, and superannuation (pension) payments. The Fair Work Ombudsman (FWO) and the Fair Work Commission (FWC) are the two key organisations in Australia's workplace relations system.

Forms of employment

Workers can be engaged in a number of different ways in Australia. Each provides different levels of flexibility and stability for workers and businesses. Workers can be either an employee or contractor, with different regulations and entitlements that may apply. Employers should consider the best approach to suit the needs of the business and its workers when deciding on which basis to hire.

Typical employment standards

Employees in Australia are entitled by law to minimum conditions defined by national employment standards. Certain entitlements apply to casual employees.

These standards cover entitlements such as weekly working hours, requests for flexible working arrangements, various types of leave and related entitlements, and termination and redundancy payments.

Australian occupational health and safety

Employers in Australia are required to take proactive steps to maintain a safe workplace and comply with occupational health and safety regulations and laws.

State and territory laws govern occupational health and safety, so requirements vary across the country. Workplace Safety authorities in each state or territory enforce the laws and provide guidance to businesses as to how to meet their obligations.

Workers' compensation system

Employers in Australia are required to have workers' compensation insurance to ensure that employees receive compensation for lost time and that medical costs are paid in the event of a workplace injury.

This system is administered by state and territory governments so varies across the nation.

Superannuation (retirement pension)

Superannuation is money set aside over the employee's career to provide for their retirement. Under Australian law, most employees are entitled to have superannuation payments made on their behalf by their employer. These payments are in addition to wages or salary.

The Superannuation Guarantee law requires that all eligible employees receive a minimum superannuation payment per quarter, payable by their employer into the individual's nominated superannuation account in a complying superannuation fund.

Source: <https://www.austrade.gov.au/international/invest/guide-to-investing/running-a-business/employing-people-in-australia/australian-employment-conditions>

Reporting

Reporting standards

Australia has adopted International Financial Reporting Standards (IFRS), as modified for Australia (Australian Accounting Standards) by the Australian Accounting Standards Board (AASB). These modifications primarily act to limit policy elections acceptable under IFRS and, for entities that do not have 'public accountability', provide relief from the full disclosures required by IFRS while still requiring full compliance with recognition and measurement of those standards.

Other financial accounting pronouncements issued by the AASB primarily focus on adapting IFRS for use by not-for-profit and public sector entities. Companies that are required to prepare a financial report in accordance with Chapter 2M of the Corporations Act 2001 must comply with Australian Accounting Standards.

The adoption of IFRS equivalents, which commenced in 2005, ensures greater transparency and understanding of financial reports between nations.

For financial reporting periods commencing on or after 1 January 2025, companies preparing financial reports in accordance with Chapter 2M of the Corporations Act 2001 may also be required to prepare a sustainability report as a part of their annual report. This sustainability report is required to be prepared in accordance with AASB S2 Climate-related Disclosures as issued by the AASB. AASB S2 is based upon but does not fully conform with the reporting requirements of IFRS S2 Climate-related Disclosures, as issued by the International Sustainability Standards Board (ISSB).

The first period of mandatory reporting will vary dependent on a combination of revenue, asset, and employee metrics, such that all 'large' companies reporting in Australia will be required to prepare or otherwise be included in a compliant sustainability report for reporting periods commencing on or after 1 July 2027.

Annual reporting

Small proprietary companies

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

- It is a foreign-controlled company that has not applied for relief from lodging financial statements. Relief is available where the small proprietary company is not a part of a large Australian group and resolves to apply for relief under ASIC Corporations (Foreign-Controlled Company Reports) Instrument 2017/204 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 an intermediate parent company (which must be an Australian company or a registered foreign company) lodges an audited consolidated financial report covering the Australian subsidiaries.
- It is a disclosing entity.

Large proprietary companies

A large proprietary company must prepare an annual report and have it audited. The audited annual 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 AUD \$597⁴.

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 AUD\$1,485⁵. 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.

⁴ Current as at 05-12-2024

⁵ Current as at 05-12-2024

Audit requirements

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

For financial years commencing on or after 1 July 2019, 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 AUD \$50m
- 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 AUD \$25m
- The company and the entities it controls (if any) have fewer than 100 full-time equivalent employees at the end of the financial year

Control is determined by reference to the requirements of AASB 10 Consolidated Financial Statements which conforms to IFRS 10 Consolidated Financial Statements.

Large proprietary companies (that is, those that are not 'small') are required to 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 to provide an audited annual report by ASIC or the entity is a foreign controlled company that is not subject to reporting relief.

Certain entities, regardless of size, are subject to audit and filing requirements. This includes holders of Australian Financial Services Licences and disclosing entities (such as most managed investment schemes or entities listed on a securities exchange)

Sustainability Reporting in Australia

Amendments to the Corporations Act 2001 now require Australian entities that meet specific criteria to prepare an annual sustainability report as part of their annual reporting obligations. The obligation phases in from 1 January 2025 to 1 July 2027 in three groups, based on size thresholds. The sustainability report is due at the same time as the financial report and directors' report.

Currently the sustainability report is only focused on climate change and must be prepared in compliance with AASB S2 Climate-related Disclosures, which is based on IFRS S2 Climate-related Disclosures issued by the International Sustainability Standards Board. The report is also subject to mandatory assurance, beginning with limited assurance (review) and transitioning to reasonable assurance (audit).

While some entities may not meet the size thresholds for reporting, they may still need to gather climate-related information to provide to other entities as part of their interactions with larger businesses that have reporting obligations. Entities raising capital may also be required to consider these disclosures as part of preparing a prospectus or PDS.



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.

Proposed acquisitions above thresholds or involving certain types of assets must be reported to FIRB irrespective of the value or nationality of the investor.

The Australian Government generally raises no objections to proposals above the notification thresholds where the relevant total assets/total investment is below AUD \$53m.

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 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, international buyers and investors. Services it provides to international investors include:

- 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



The Australian Government generally raises no objections to proposals above the notification thresholds where the relevant total assets/total investment is below AUD \$53m.

Imports

Import and export controls

Tariffs, anti-dumping measures, import licensing and quarantine restrictions may apply. Over the last few years Australia has entered into several regional and bilateral free trade agreements. In addition, an evolving trade facilitation program called the Australian Trusted Trader program was implemented, designed to reduce the red tape often associated with cross-border trade which helps to improve the flow of goods into Australia.

To become accredited into the program it does require companies to demonstrate robust processes around supply chain security and trade compliance. Currently 30 per cent of cross border trade is conducted by trusted traders. The simplification of the customs processes has enabled customs to place greater emphasis on customs compliance, with key focus areas on the disclosure of transfer pricing adjustments and royalty payments associated to cost of goods sold. An announcement is also expected regarding the possible introduction of Carbon Border Adjustment Mechanism Tariffs.

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 approximately 2,000 listed companies with a combined market capitalisation of approximately AUD\$3 trillion.

Entities seeking quotation on the ASX must comply with either a net tangible assets test (>AUD\$4m), market capitalisation test (>AUD\$15m) or a profit test (>AUD\$1m total last three years and >AUD\$500k from continuing operations over the last 12 months). Entities must also have a spread of shareholders of at least 300 non-affiliated shareholders with a minimum holding of AUD\$2,000 each and in aggregate no less than 20 per cent held by unrelated parties.

The IPO process includes the preparation of a disclosure document in the form of a prospectus or product disclosure statement (PDS) or, if the ASX consents, an information memorandum (IM).

Companies listed on the ASX subject to a range of regulations, including 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 systems

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, with its role being 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.



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 ASIC, who is responsible for registration, licencing and compliance within Australia's financial sector.

In the mid-market, there are a broad range of Private Equity firms who invest in Australian businesses in a variety of different structures.

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.

Infrastructure

Australia's buoyant economy, growing population and increasing freight volumes are creating high demand for new infrastructure and opening up opportunities for international investment. Infrastructure is important for Australia due to 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 Australian Government is committed to a 10-year, over AUD \$120b infrastructure investment pipeline, ensuring a rolling program of sustainable land transport infrastructure projects. The Government is working in partnership with states and territories to deliver a pipeline of projects which support a range of economic and social objectives, including productivity and resilience, sustainability, the energy transition and housing.

As at the 2024–25 Budget, the Government has committed AUD \$96.5b towards nation building projects in the Infrastructure Investment Program, over the 10 years from 2024–25.

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 grew from 15 per cent in 1990 to 50 per cent in 2012.

However, Australia's infrastructure sector is facing challenges post-COVID. A widespread skills shortage and rising cost of materials is challenging Australia's infrastructure delivery requirements, affecting both major infrastructure developments and residential and commercial building alike. The construction industry in Australia faced a wave of insolvencies throughout 2024, with ASIC reporting over 3,000 construction industry insolvency appointments as of 23 December 2024.

Australia looks to build new infrastructure, renew ageing facilities and privatise assets, it remains a stable market where international firms can choose from a wide range of investment opportunities and partnership and investment structures.



Public Private Partnerships

The Australian government has a long 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.

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

The year 2024 saw a 'two speed' market infrastructure develop, with New South Wales and Victoria pipelines reduced by AUD \$39b, driven by project completion, project delays and fewer new projects. Whereas the Queensland and Northern Territory pipelines have grown by AUD \$16b with projects across various stages, particularly as it relates to the 2032 Olympic and Paralympic Games infrastructure in Queensland.

Privatisations

Australia has a strong track record of privatising public assets. 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 developments, but by asset disposal programs. The bulk of disposals will be the privatisation of. 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 AUD\$219 billion in publicly owned assets that could potentially be privatised.



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People globally 68,000+	People nationally 1,500+
Partners nationally 172	Global revenue (USD) \$7.2b
National revenue (AUD) \$370m	Offices nationwide 6
Offices globally 750+	Markets 145+

* Note that this number represents total number of partners, other references in this document are referring to Full Time Equivalent Partners (FTE).

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