

Establishing a Business in Australia

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Welcome

to the Crowe Global Investing in Australia 2021 guidebook.

Thanks to its robust economy and stability, Australia is an attractive location for international businesses to set up a permanent presence. However, because different countries have different rules, regulations and operating requirements, setting up a business in Australia can be challenging.

Crowe Australasia has the capabilities and expertise to help you set up (and run) a business in Australia.



1. Establish and run a business in Australia

If you are planning to establish a business in Australia, our team of experts can guide you from day one. We can help you develop your business, minimise risk, increase profitability and achieve growth. To give you a basic understanding of the fundamentals of doing business in Australia, we have put together this short and succinct guide of some of the main issues to consider if someone from a foreign country wants to set up and run a business in Australia.

A word of caution

This guide is not exhaustive and is only intended to give you a snapshot of some of the main issues to consider when contemplating such a move to Australia.

2. How can Crowe Australasia help you?

Set out below are some of the most important issues to consider when establishing a business in Australia.

A. Best business structure for your business

- Depends on your circumstances.
- Subsidiary, branch or other?

When establishing a business in Australia, choosing the right structure to operate from will allow you to develop your business with confidence, knowing you are not weighed down by excessive compliance obligations. The main types of business entities in Australia are companies, trusts, partnerships or sole traders.

The right structure will also help you achieve the best commercial (e.g. asset protection) and taxation outcomes (e.g. CGT discount available for individuals and trusts but not for companies).

For foreign companies wanting to expand into Australia, the two most common structures include:

Subsidiary:

- A new independent company incorporated in Australia (registering the company with ASIC).
- Subsidiary company may need to be audited in Australia.

Branch:

- Foreign company registers with ASIC that it is operating in Australia through a branch.
- Branch does not need to be audited in Australia.

Crowe Australasia can help you set up your Australian structure and manage the year-to-year compliance on your behalf.

B. Regulatory rules that will apply to your business

- Statutory bodies.
- Compliance issues.

We can assist with business registrations and liaising with the relevant regulatory authorities such as the:

- Australian Securities and Investments Commission (ASIC) – to register a company or branch.
- Australian Taxation Office (ATO) - for tax returns and assessments.
- Foreign Investment Review Board (FIRB) – for foreign investments (e.g. foreigners buying real estate).
- Office of State Revenue - for various state-based property taxes (e.g. stamp duty and land tax).

Crowe Australasia can help minimise your compliance risk in Australia by assisting with compliance issues such as:

Compliance issue	What must businesses do?	How can we help?
Audit and accounts	<ul style="list-style-type: none"> • Lodge audited financial statements and annual returns to ASIC each year (unless you qualify for relief from audit and reporting obligations) • Companies part of a group with worldwide income of \$1 billion or more must lodge general purpose financial statements with the ATO 	<ul style="list-style-type: none"> • Help you understand the financial reporting requirements • Undertake an audit of your financial statements
Corporate authority	<p>As per ASIC rules, ensure:</p> <ul style="list-style-type: none"> • Your foreign subsidiary in Australia has at least one local director • Your branch has a local agent 	<ul style="list-style-type: none"> • Assist you to comply with ASIC rules
Income tax	<ul style="list-style-type: none"> • Comply with ever-changing tax laws 	<ul style="list-style-type: none"> • Advise you on the latest developments in international and Australian taxes • Assist with compliance with all tax laws and help lodge income tax returns • Provide tax advisory services when needed
Goods and services tax (GST)	<ul style="list-style-type: none"> • Pay 10% GST on taxable supplies made (usually passed on to customer) and claim credit for GST paid on creditable acquisitions 	<ul style="list-style-type: none"> • Help you adopt the most efficient GST strategies when importing goods into Australia • Submit monthly / quarterly business activity statements to the ATO
Fringe benefits tax (FBT)	<ul style="list-style-type: none"> • Pay FBT when you provide non-cash benefits to employees 	<ul style="list-style-type: none"> • Identify and package employee benefits tax effectively and help lodge FBT returns
Payroll tax (i.e. state based tax)	<ul style="list-style-type: none"> • Pay payroll tax based on the sum of wages paid 	<ul style="list-style-type: none"> • Assist with registering and complying with Payroll Tax obligations
Superannuation contributions	<ul style="list-style-type: none"> • Contribute 10% of employees' wages to a complying superannuation fund (i.e. a retirement fund) 	<ul style="list-style-type: none"> • Assist with all superannuation administration and compliance issues
Workers' Compensation Insurance (i.e. state based)	<ul style="list-style-type: none"> • Must take out Workers' Compensation Insurance 	<ul style="list-style-type: none"> • Help you set up and renew compulsory insurance for your employees

To further save on Australian compliance costs, we recommend you align your accounting and tax periods. In Australia the default reporting date is 30 June.

If you are in a consolidated group, prepare your Australian tax reporting information using the same reporting period as your consolidated group.

C. Taxes affecting your business

- Tax advisory work
- International and Australian tax laws

With one of the most experienced tax teams in Australia, we can help you:

- Understand what the international and Australian tax implications of setting up and running a business in Australia are
- Understand what your employer obligations are (e.g. fringe benefits tax, payroll, salary packaging)

Because you are operating internationally, we can provide you with a transfer pricing and structuring strategy that will consider how best to finance your Australian operations.


Examples of tax services we can provide include:

Types of tax issue	How can we help?
Repatriation of profits to your home country	<ul style="list-style-type: none">• Provide expert advice regarding the operation of double taxation agreements (DTAs) between Australia and the foreign country
Transfer pricing and country-by-country (CBC) reporting	<ul style="list-style-type: none">• Compliance with all the transfer pricing rules (i.e. only charge arm's length prices for all related party cross-border dealings)• Ensure groups with worldwide income of \$1 billion or more comply with country-by-country reporting requirements
Thin capitalisation	<ul style="list-style-type: none">• Review your debt financing (as interest deductions on such debt may be limited under the thin capitalisation rules)
Taxation of Financial Arrangements (TOFA)	<ul style="list-style-type: none">• Help you understand when to recognise foreign exchange gains or losses for tax purposes
Any other ad hoc taxation issue	<ul style="list-style-type: none">• Provide a tax solution through careful analysis of relevant tax law

D. Your day-to-day business needs

Crowe Australasia can undertake or connect you with outsourced solutions to meet your day-to-day business needs, which can help control the headcount and other costs of your Australian entity.

Type of general service	How can we help?
Bookkeeping	<ul style="list-style-type: none">• Help ensure your bookkeeping meets our standard of quality
Payroll	<ul style="list-style-type: none">• Assist with payroll requirements (e.g. leave entitlements, wages, superannuation and taxes withheld on employees' wages)
Management accounting	<ul style="list-style-type: none">• Help you with monthly financial figures and day-to-day bookkeeping, so you can concentrate on analysing your financial statements
Banking	<ul style="list-style-type: none">• Help you to establish your banking and financing arrangements with Australia's major banks
Legal advice	<ul style="list-style-type: none">• Connect you with the most appropriate local law firms to suit your legal requirements
Operational effectiveness	<ul style="list-style-type: none">• Work with you to improve business performance and operations
Market research	<ul style="list-style-type: none">• Help reduce your establishment costs by using local marketing consultants to assess the feasibility of your business in Australia
Accounts payable & accounts receivable	<ul style="list-style-type: none">• Help you to manage the accounts payable and accounts receivable functions including arrange creditor payment, debt collection and manage supplier and customer queries as required
Outsourced CFO	<ul style="list-style-type: none">• Help act as the Australian operation's lead finance officer and manage the local finance function
Insurance	<ul style="list-style-type: none">• Arrange a quote from our licensed insurance broker to help you cover the local gaps in your international coverage
Financial modelling	<ul style="list-style-type: none">• Work with you to build financial models, including three-way integrated financial statements to assist in initial capital investment, scenario analysis on strategic planning, budgeting, forecasting for financial planning and working capital requirements
Business valuations	<ul style="list-style-type: none">• Assist in preparing detailed business valuations using comprehensive market research and financial information whenever you are looking to sell, acquire or seek investment for your business
Working capital analysis	<ul style="list-style-type: none">• Review your current working capital processes, from analysing debtor terms and supplier agreements to cash flow forecasting and working capital requirements
Employee share scheme	<ul style="list-style-type: none">• Help to establish an employee share and options plan and assist with compliance and reporting requirements as well as advising on tax consequences for employees
Information technology	<ul style="list-style-type: none">• Design and support your IT needs in building the business (e.g. IT planning, integration of systems, cyber security or other IT advisory needs)

A man in a grey t-shirt and yellow shorts sits on a stone wall, looking out over a city at sunset. The sun is low on the horizon, casting a warm glow over the clouds and the city below. The man is in profile, looking towards the right. The city skyline is visible in the distance, with the ocean beyond it. The sky is filled with soft, white clouds.

We understand the ever-changing world of tax and the business implications it has. Regardless of where your business operates, we offer you expert tax advice.

3. Helping foreign individuals coming to Australia

More details on visas can be found on the Australian department of Home Affairs website.

A. Necessary visas to set up a business or work in Australia

There are a number of visa options for people seeking to undertake a business visit, own or manage a business in Australia or invest in Australia.

Some examples of such kind of visas are:

Type of visa	What it allows visa holder to do
Subclass 600 Business Visitor stream	<ul style="list-style-type: none">Allows visa holder to visit Australia for business reasons for up to 3 months (but can't work or sell services)
Subclass 132 Significant Business History stream <ul style="list-style-type: none">Must be nominated by a state or territory government agency	<ul style="list-style-type: none">Allows visa holders to operate a new or existing business in Australia permanently (must have the required funding or assets)
Subclass 188 Business Innovation stream <ul style="list-style-type: none">Must be nominated by a state or territory government agency	<ul style="list-style-type: none">Allows visa holders to operate a new or existing business in Australia for up to 4 years and 3 months
Subclass 188 Investor stream <ul style="list-style-type: none">Must be nominated by a state or territory government agency	<ul style="list-style-type: none">Allows visa holders to invest at least AUD \$1.5 million in an Australian State or Territory and maintain business or investment activity in Australia for up to 4 years and 3 months

Furthermore, there are about 21 different working and skilled visas that may allow individuals to work in Australia.

The main type of employer sponsored visas are:

Type of employer sponsored visa	What it allows workers to do
Subclass 482 Temporary Skill Shortage visa	<ul style="list-style-type: none">Allows skilled workers to live and work in Australia for up to 2 or 4 years
Subclass 186 Employer Nomination Scheme visa	<ul style="list-style-type: none">Allows skilled workers to live and work in Australia permanently

We can connect you to the right migration agent/lawyer who can provide you with tailored advice on the exact kind of visa that will be the most suitable for your situation.

B. Expatriate taxes for individuals

Crowe Australasia can help with your executive remuneration arrangements by keeping you up to date with the latest strategies in foreign executive remuneration such as salary packaging, living-away-from-home-allowances and superannuation contributions.

We can advise on expatriate taxes should you need to send employees to Australia.

It is important to be aware of the recent tax changes that may adversely impact a person who, at the time of selling a former main residence, is a non-resident for tax purposes.

If an individual expatriate bought a house in Australia and used it as their main residence and, after leaving Australia, the house is sold when they are no longer a tax resident of Australia, the main residence exemption will not be available and they will have to pay tax on any gain.

4. Let Crowe Australasia help you set up your business in Australia

We trust you found this tax overview useful to alert you to some of the most important issues to consider when setting up a business in Australia.

With over 100 offices throughout Australia and New Zealand, our vast geographical footprint provides you with direct access to our expert advisers and professionals.

Located in most regional, rural and metropolitan areas and with almost 3000 staff, Crowe Australasia is well positioned to assist you in building your wealth and a secure financial future.



If you or your Australian-based entity requires the expertise and resources of a full-service accounting firm, coupled with individualised attention from a dedicated team, please contact:

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August 2021