

# Australian Tax Issues for Inbound Entities

## Australian Subsidiary vs Australian branch

Operations in Australia can be carried out through either a subsidiary (Australian registered company) or an Australian branch of a foreign company. The following are some of the main differences between these two options:

Subsidiary	Branch Office
<p><b>Corporations Law (Australia's code of company law, regulated by the Australian Securities and Investment Commission (ASIC))</b></p> <ul style="list-style-type: none"> <li>• Separate legal entity</li> <li>• Registered with ASIC and given a unique identifying number, an ACN (Australian Company Number)</li> <li>• Liabilities remain with subsidiary in the absence of guarantees and like arrangements or if the subsidiary trades while insolvent</li> </ul>	<p><b>Corporations Law (Australia's code of company law, regulated by the Australian Securities and Investment Commission (ASIC))</b></p> <ul style="list-style-type: none"> <li>• Not a separate legal entity</li> <li>• Foreign company may be required to register with ASIC and be given a unique identifying number, an ARBN (Australian Registered Body Number)</li> <li>• Liabilities are those of the foreign company</li> </ul>
<p><b>Australian Taxation Office (ATO)</b></p> <ul style="list-style-type: none"> <li>• Will need to register for an Australian Business Number (ABN) to do business in Australia</li> <li>• May also need to register for Goods and Services Tax (GST)</li> <li>• If company employs and provides personal benefits, registrations may include Pay As You Go Withholding, Fringe Benefits Tax and Workcover</li> <li>• Tax File Number (TFN) will also need to be applied for in order to lodge income tax returns</li> </ul>	<p><b>Australian Taxation Office (ATO)</b></p> <ul style="list-style-type: none"> <li>• Will need to register for an Australian Business Number (ABN) to do business in Australia</li> <li>• May also need to register for Goods and Services Tax (GST)</li> <li>• If company employs and provides personal benefits, registrations may include Pay As You Go Withholding, Fringe Benefits Tax and Workcover</li> <li>• Tax File Number (TFN) will also need to be applied for in order to lodge income tax returns</li> </ul>
<p><b>Officeholders</b></p> <ul style="list-style-type: none"> <li>• Australian resident director is required</li> <li>• Australian resident public officer is required</li> </ul>	<p><b>Officeholders</b></p> <ul style="list-style-type: none"> <li>• Australian resident local agent is required</li> <li>• Australian resident public officer is required</li> </ul>
<p><b>Ongoing administrative responsibilities</b></p> <ul style="list-style-type: none"> <li>• Exemption from lodging financial reports if relieved from doing so under Corporations Law</li> </ul>	<p><b>Ongoing administrative responsibilities</b></p> <ul style="list-style-type: none"> <li>• Foreign company must lodge financial reports, including profit and loss, balance sheet, and statement of cash flows with ASIC (exemptions may apply)</li> </ul>
<p><b>How taxed in Australia</b></p> <ul style="list-style-type: none"> <li>• Subject to Australian income tax on income from worldwide sources</li> <li>• Foreign source income may be exempt or subject to a Foreign Income Tax Offset</li> </ul>	<p><b>How taxed in Australia</b></p> <ul style="list-style-type: none"> <li>• Subject to Australian income tax on income sourced in Australia</li> </ul>
<p><b>Applicable rate of Australian tax</b></p> <ul style="list-style-type: none"> <li>• Corporate tax rate is 30%</li> <li>• Withholding tax applies to various international payments</li> </ul>	<p><b>Applicable rate of Australian tax</b></p> <ul style="list-style-type: none"> <li>• Corporate tax rate is 30%</li> <li>• No branch profits tax</li> <li>• Withholding tax applies to various international payments</li> </ul>
<p><b>Audit</b></p> <ul style="list-style-type: none"> <li>• Audit required under Australian Corporations Law if controlled by a foreign corporation</li> <li>• Class relief may be available removing the need for audit</li> </ul>	<p><b>Audit</b></p> <ul style="list-style-type: none"> <li>• Audit not required</li> <li>• ASIC has the authority to request audited financials reports if previously lodged reports are insufficient</li> </ul>

The appropriate structure will depend on the type of activity to be carried on in Australia and other factors such as profit repatriation requirements. We are able to provide advice in respect of the advantages and disadvantages of each structure, including an analysis of the income tax consequences.

## Registrations

### ASIC

- Australian Registered Body Number (ARBN) or Australian Company Number (ACN) - discussed above.

### Australian Business Register

- Australian Business Number (ABN) - is only available where an entity carries on an enterprise in Australia. This registers the entity with the Australian Tax Office ("ATO"). There are withholding obligations if an Australian business deals with an entity that does not have an ABN.

### Australian Taxation Office

- Tax File Number (TFN) - Tax file numbers are issued by the ATO and are used when lodging an income tax return.
- Pay As You Go Withholding (PAYG-W) Registration - required where an employer is obliged to withhold tax from an employee's salary, or for other withholding events.
- Fringe Benefits Tax (FBT) - an employer is liable to FBT in respect of non-cash benefits (e.g. a motor car, subsidised or free rent, car parking, entertainment or private health insurance) provided to its employees.
- GST Registration - registration is not required unless the entity makes, or expects to make, Australian sales in excess of \$75,000 per year. In the event this threshold requirement is not met, the entity may nevertheless voluntarily register for GST so that it can claim a refund of GST on expenses it incurs (e.g. accountancy fees, rent, employee out-of-pockets).
- Substituted Accounting Period - the Australian financial year runs from 1 July to the following 30 June. It is however possible to align the financial year of a company with that of the foreign parent, subject to ATO approval.

## Other Regulators

- Workers' Compensation Insurance - is compulsory and must be obtained prior to an employee commencing employment in any Australian State or Territory. A cover note can be obtained from the insurer at the time the employee commences employment with a formal application and notification of ABN made at a later time. If offices are located in more than one State, a separate policy is required for each State.
- Superannuation - There is a requirement for an Australian employee to have 9% of their wage contributed to a superannuation scheme by their employer (up to a maximum wage of \$168,880 for the 2010/11 financial year). Through our in-house financial planning division, we can recommend various funds that would be suitable for these contributions and can organise registration of your employees with the fund chosen.
- Pay-roll Tax - Pay-roll tax is a State tax that is payable by the employer, based on the size of their annual Australian pay-roll. For example, for 2010/11 the Victorian annual tax-free threshold is \$550,000, with the rate applying to wages in excess of this threshold being 4.90%. Different thresholds and rates apply in other States and Territories.

## Cross-border tax advice

RSM Bird Cameron is able to provide taxation advice on a wide range of corporate tax issues including specific cross-border topics such as:

- Transfer Pricing
- Thin Capitalisation
- Double Tax Treaty planning
- Profit Repatriation

## A balanced view

Often tax strategies that look good by themselves can be less sensible, even problematic in the context of your whole business.

That's why RSM Bird Cameron takes a balanced and integrated approach. We focus on your total business picture, not just your next return. Our tax consultants help you define the right overall tax position,

designed to save you money in complex tax environments, while at the same time meeting your larger business goals. And since we take a broad overview of a client's business, we can see opportunities that other tax specialists might miss.

At RSM Bird Cameron we believe tax planning is a year-round concern. Yes, we're sticklers about deadlines and compliance, but our larger goal is tax management. Tax issues don't begin and end with tax returns, so we keep a constant eye on your company's overall obligations. We alert you to any changes that may affect you and help you to respond in a timely way.

Our proactive approach to taxes sets us apart. In addition to providing ongoing advice we offer a number of specific tax services.

## Ongoing accounting and compliance

### GST

- Business Activities Statements ("BAS's) are lodged with the ATO on a monthly or quarterly basis. Disclosure includes total sales and expenditure.

### Payroll-tax

Monthly calculation and payment of pay-roll tax is required by the various States and Territories in which the pay-roll threshold is exceeded.

### Provision of accounting services

We are able to act as an administration centre for non-resident entities with limited or no Australian accounting support. This may include services such as:

- provision of bookkeeping services to the Australian operation,
- preparation of regular Instalment Activity Statements (to remit employee and company tax to the Australian Tax Office (ATO)),

- preparation of BAS (to remit GST to the ATO), and
- preparation of monthly management accounts.


## Annual statutory requirements

The annual statutory requirements include:

- Income Tax Return (ITR) - annual statement detailing net income on a financial year ended 30 June (unless a substituted period is permitted),
- ASIC annual company statement - each registered company must lodge an annual statement confirming certain company particulars. Unless the company qualifies for an exemption, it will also be required to lodge a copy of its audited financial statements or
- Lodgement of financial reports, including profit and loss, balance sheet, and statement of cash flows with ASIC and
- FBT Return - annual statement disclosing details of any non-cash benefits provided by an employer to its employees. This is only required to be prepared where fringe benefits are provided.

## Expatriate employee services

- Effective salary packaging opportunities exist where expatriate employees are relocated to Australia. We are able to advise on the structure of an effective salary package and to meet Australian expatriate compliance obligations



“There are many issues that need to be considered with inbound investing. Neglecting any of these issues could prove costly.”



## About RSM Bird Cameron

RSM Bird Cameron is a full service national accounting firm delivering expert corporate financial and advisory accounting services to clients across diverse industry sectors. Our unique one-firm structure enables our clients to more readily connect to our extensive national and international networks, expertise and industry experience.

RSM Bird Cameron boasts a national network of 26 offices which, combined with our 90 year Australian heritage, has helped us develop an extensive understanding of Australian business trends and conditions.

As a single firm, we provide strong service benefits to our clients. Our structure enhances business efficiencies, reduces internal bureaucracy and underpins our client focused culture. It also assists our clients in readily connecting to Partners and Senior Advisors, providing both leading advice and great value for money.

## About RSM International

RSM Bird Cameron is the Australian member firm of RSM International, through which we have access to a vast pool of global resources and experience. As the sixth largest professional service, accounting and consulting organisation in the world, RSM International links RSM Bird Cameron to over 730 offices and 30,200 professional staff and practices in more than 72 countries.

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