



DOING BUSINESS IN AUSTRALIA:

TAXATION



Will you need to lodge an Australian tax return in the future? Yes ☐ Don't know ☐

Your date of birth

If you were under 18 years old on 30 June 2018, you must complete item A1 on page 2 of the return.

Electronic funds transfer

We need your financial institution details to process your tax return. Write the details in the boxes below.

2018

Tax return for individuals

1 July 2017 to 30 June 2018

- Print ☒ in all appropriate boxes.
- Do not use correction fluid or tape.
- Complete your details carefully to avoid delays in processing your tax return.

See the **Privacy** note in the **Taxpayer's declaration** on page 10 of this return.

It is not possible to give a complete outline of the scope of the taxation system in this guide. A brief outline of the basic taxation principles and some of the major forms of taxation are discussed below.

In all cases, we strongly recommend that you obtain professional tax and legal advice before structuring or implementing your investment or business plans in Australia. Meritas law firms have considerable tax expertise.

All levels of government in Australia levy tax.

TAXATION

FEDERAL TAXES

The most important federal taxes are:

- Income tax (including capital gains tax)
- Company tax
- Goods and services tax
- Customs duties
- Fringe benefits tax.

STATE AND TERRITORY TAXES

These taxes include:

- Stamp duty
- Land tax
- Payroll tax.

The federal government levies none of these taxes.

State or territory governments levy none of these taxes.



The main office of the Department of the Treasury located in the Australia Capital Territory (ACT)

LOCAL GOVERNMENT TAXES

Local or municipal governments raise revenue by levying a “rate” on land located within their districts. The rate is proportional to the value of the land. Some municipalities rate on the basis of land value alone while others rate on the basis of land value and improvements.

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PROBATE, DEATH DUTIES AND GIFTS

There is no probate or death duties in Australia. Gifts of assets are also not subject to any specific gift tax but may be subject to capital gains tax if not in cash.

INCOME TAX

Australia taxes residents on worldwide income. Non-residents are taxed on the basis of Australian source income only.

Temporary resident individuals are taxed as though they are non-residents (i.e. only on Australian source income and gains). The financial or income reporting year in Australia is generally from 1 July to the following 30 June, though substituted accounting periods can be arranged where there is a good reason (e.g. to align Australian reporting with an overseas parent company).

A company will generally be a resident of Australia for taxation purposes if it is incorporated in Australia or if its central management or control is located in Australia. Double Tax Treaties may treat companies as resident at the place of effective control to avoid treating them as residents of more than one country.

Taxable income in Australia is the difference between assessable income and allowable deductions. The notion of “assessable income” is broader than the accounting notion of “income”. For instance, assessable income in Australia includes capital gains.

The notion of “allowable deductions” includes most things that would be allowed as a deduction for accounting purposes. However, it does not include entertainment expenses or outgoings of a private or domestic nature (e.g., interest on a mortgage used to purchase a private property).

Losses may be carried forward from one year to the next but cannot be carried back. (A limited company loss carry back rule was repealed in Australia after one year of operation.) Company losses must meet either a “continuity of ownership” test or a “continuity of business” test to remain deductible in subsequent years. Foreign tax credits are usually recognised.

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INDIVIDUAL TAX RATES

Taxable income is treated differently for individuals compared with companies.

RESIDENTS

The tax rates for resident individuals for the 2018–19 year are set out below:

Taxable Income (\$)	Tax Payable
Nil - 18,200	Nil
18,201 - 37,000	19% in excess over 18,200
37,001 - 90,000	3,572 + 32.5% of excess over 37,000
90,001 - 180,000	20,797 + 37% of excess over 90,000
180,001 +	54,097 + 45% of excess over 180,000
A Medicare Levy of 2% is also charged	

NON-RESIDENTS

The tax rates for non-resident individuals for the 2018–19 year are set out below:

Taxable Income (\$)	Tax Payable
Nil - 90,000	32.5%
90,001 - 180,000	29,250 + 37% of excess over 90,000
180,001 +	62,550 + 45% of excess over 180,000

Whether an individual is a resident for tax purposes is not the same as an individual's citizenship or residency status for immigration purposes. If an individual resides in Australia and satisfies the "resides test", the individual is considered an Australian resident for tax purposes.

If an individual does not satisfy the "resides test", the individual may still be considered an Australian tax resident if one of the following three statutory tests is satisfied:

1. The domicile test
2. The 183-day test
3. The superannuation test.

This is a matter on which your Meritas firm can provide more detailed advice and assistance.

TAXATION



COMPANIES

All companies are currently taxed at a flat rate of 30% on their taxable income, unless they are eligible for the lower company tax rate of 27.5% (from the 2018–2019 to 2023–2024 financial years). The lower company tax rate will then reduce to 25% by the 2026–27 financial year.

Eligibility for the lower company tax rate is dependent on whether the company is a “base rate entity”. A base rate entity is a company that has an aggregated turnover less than the aggregated turnover threshold (which is \$50m from the 2018–2019 to 2023–2024 for consistency financial years) and that 80% or less of the company’s assessable income is base rate entity passive income.

Some of the examples of a base rate entity’s passive income include corporate distributions and franking credits on these distributions; royalties and rent; interest income; gains on qualifying securities; a net capital gain; and an amount included in the assessable income of a partner in a partnership or a beneficiary of a trust, to the extent it is traceable to an amount that is otherwise base rate entity passive income.

If no dividend is declared by a company, no further tax is payable in the hands of the resident shareholder. Australia does not impose either excess profits tax or adopt any alternative minimum tax rules.

If a dividend is declared, and the dividend comes from funds on which the company has paid Australian tax, then a resident shareholder will be taxed on an amount that consists of the cash received or credited plus an amount called a “franking credit”, which represents the company tax paid by the company. The resident individual shareholder can use the company tax (that is the franking credit) to offset any liability to pay the individual’s personal tax.

If the shareholder is a resident individual with a tax rate of less than 30% (or 27.5% for base rate entity), and has income consisting of only fully franked dividends, the resident individual will be entitled to a tax refund.

No tax will be payable if the resident shareholder is another resident company.

For example: Assume a company who is not a base rate entity has \$100 profit and one shareholder. The company pays \$30 company tax (being 30% of \$100). The board of the company may choose to pay a dividend. Assume it chooses to pay a \$100 dividend. In that case, the shareholder receives \$70 cash and a tax credit of \$30 (franking credit). For income tax purposes the shareholder has received taxable income of \$100. The shareholder must pay income tax on the \$100 at his marginal rate but is entitled to an \$30 tax credit for the franking credit.

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CAPITAL GAINS TAX (CGT)

Assessable income may include net capital gains. Net capital gains derived by individuals (Australian residents and nonresidents) are taxed at their respective progressive tax rates.

Net capital gains derived by companies are taxed at the usual corporate rate of 30% or at the lower company tax rate of 27.5% (from the 2018–2019 to 2023–2024 financial years) if they are base rate entities.

Australian residents are liable for tax on worldwide capital gains. In many cases these gains may qualify for a 50% discount if the CGT asset is held for 12 months or more (the discount is not available to companies and foreign resident individuals) and in some cases, small businesses are eligible to receive a further 50% discount.

The Australian CGT rules allow a number of indefinite deferrals of tax by allowing rollover relief. This is a matter on which your Meritas firm can provide more detailed advice and assistance.

Overseas resident investors, however, are now largely exempted from Australian CGT except on the limited class of assets known as “taxable Australian property.” Broadly, this refers to interests in Australian real estate and related property interests. On disposal of a real property where the contract price is \$750,000 and above, there will be a foreign resident capital gains withholding tax at the rate of 12.5%.



Where an overseas entity incorporates an Australian company that conducts an active Australian business that is not “land rich” the capital gain on sale of the Australian company shares would generally be tax free. Again, this is an area where expert advice is strongly recommended from your Meritas firm.

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WITHHOLDING TAX

Australia levies a withholding tax on remittances of the following types of income to non-residents at the rates set out:

- Dividend: 30%
- Interest: 10%
- Royalty: 30%

Where an Australian resident remits income of the type mentioned above to a non-resident, prima facie tax at the rate set out above must be deducted from the payment by the Australian resident remitter.

These rates are reduced for the various Double Tax Treaties to which Australia is a signatory. In the case of the United States, the Australia-U.S. Free Trade Agreement further reduces the rates.

DIVIDEND WITHHOLDING TAX (DWT)

Where an Australian resident is a company that pays a dividend out of profits in respect of which company tax has been paid at 30% as outlined above to a non-resident shareholder (i.e., the dividend is fully franked) then no DWT is levied.

To the extent to which distributions to a non-resident are unfranked, these are subject to DWT at 30%, reduced by tax treaties where applicable. Most treaties provide for 15% DWT. Special rules apply for New Zealand under the Triangular Tax Rules to provide an element of mutual recognition of trans-Tasman franking credits.

Certain unfranked dividends may be paid to non-resident shareholders under the “conduit foreign income” rules.

Generally, conduit foreign income represents income and gains made by or through an Australian company that are not taxed at the company level (e.g. foreign non-portfolio dividends and gains on the disposal of certain foreign shares). These generous exemptions now make Australia an ideal place to base an intermediary holding company.

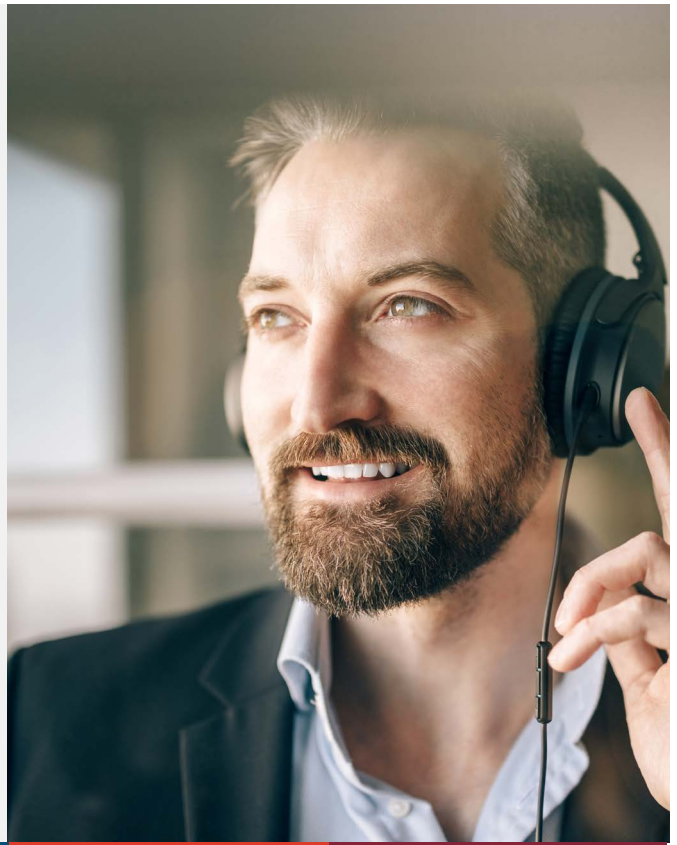
TAXATION

INTEREST WITHHOLDING TAX (IWT)

Interest paid to non-residents by Australian residents generally attracts IWT at 10% unless either reduced by a tax treaty or covered by certain limited exemptions.

ROYALTY WITHHOLDING TAX

Royalties are defined very broadly to include fees for the supply of certain property or rights. Royalties paid will generally be deductible to an Australian company, subject to the transfer pricing rules if paid to a related party or on non-arms-length terms. Royalties are subject to withholding tax at 30% unless reduced by a tax treaty, where the rate is generally 10%.



INTERMEDIARY OR REGIONAL HOLDING COMPANIES

Changes made to both the taxation of foreign income received or earned by Australian resident companies together with both an extensive network of tax treaties and CGT exemptions for overseas gains have made Australia a very competitive place to base intermediary or regional holding companies.

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DOUBLE TAX TREATIES

Australia is party to a comprehensive range of double tax agreements with a number of countries. One effect of all double tax agreements is that the dividend and royalty withholding tax rates specified above are substantially reduced. Where treaty rates are higher than domestic rates, the lower rate prevails.

Country	Dividends	Interest	Royalties	Country	Dividends	Interest	Royalties
Argentina	10-15%	12%	10-15%	Mexico	0-15%	10-15%	10%
Austria	15%	10%	10%	Netherlands	15%	10%	10%
Belgium	15%	10%	10%	New Zealand	5-15%	10%	5%
Canada	5-15%	10%	10%	Norway	5-15%	10%	10%
Chile	5-15%	5-15%	5-10%	Papua New Guinea	15-20%	10%	10%
China (Not HK or Macau)	15%	10%	10%	Philippines	15-25%	10-15%	15-25%
Czech Republic	5-15%	10%	10%	Poland	15%	10%	10%
Denmark	15%	10%	10%	Romania	5-15%	10%	10%
Fiji	20%	10%	15%	Russian Federation	5-15%	10%	10%
Finland	0-15%	10%	5%	Singapore	15%	10%	10%
France	0-15%	10%	5%	Slovakia	15%	10%	10%
Germany	15%	10%	5%	South Africa	5-15%	0-10%	5%
Hungary	15%	10%	10%	Spain	15%	10%	10%
India	15%	15%	10-15%	Sri Lanka	15%	10%	10%
Indonesia	15%	10%	10-15%	Sweden	15%	10%	10%
Ireland	15%	10%	10%	Switzerland	15%	10%	5%
Italy	15%	10%	10%	Taiwan	10-15%	10%	12.5%
Japan	5-10%	10%	5%	Thailand	15-20%	10-25%	15%
Kiribati	20%	10%	15%	Turkey	5-15%	10%	10%
Korea	15%	15%	15%	United Kingdom	0-15%	0-10%	5%
Malaysia	15%	15%	15%	United States	0-15%	0-10%	5%
Malta	15%	15%	10%	Vietnam	10-15%	10%	10%

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TRANSFER PRICING

Australia has overhauled its transfer pricing rules following a number of unsuccessful court cases. First, interim retrospective rules were introduced. Then, from 23 June 2013, completely new rules commenced. These rules are both complex and comprehensive and allow the Australian Taxation Office to adjust the outcome of transactions where it believes that non-arms-length prices have been charged to the detriment of the revenue.

While all taxpayers are required to keep comprehensive records for tax purposes, there is a special need to document transfer pricing decisions to establish that prices are reasonable and commercially justifiable.

This is a complex area on which specialist tax advice is recommended from your Meritas firm.

THIN CAPITALISATION

Thin capitalisation rules operate to restrict interest deductions allowable against Australian source income for both foreign controlled Australian investments (inbound investors) and Australian entities investing overseas (outbound investors) where the entity's debt exceeds certain levels.

The following applies from 1 July 2019.

- Generally the maximum permitted gearing for both inbound and outbound investors will be set at a debt-to-equity ratio of 1.5-to-1 or 60% debt to total assets (15-to-1 ratio for financial institutions or 93.75% debt to total assets).
- Taxpayers with annual interest deductions of less than AU\$2 million will be exempt from the thin capitalization rules.

CONSOLIDATION-RULES

These rules allow wholly owned corporate groups to prepare and lodge tax returns on a consolidated basis to reflect the fact that they generally operate as a single economic unit.

Where consolidated returns are prepared, the head company acts as a representative taxpayer for the whole group and all losses can be offset against income derived by other group members. Similarly, the tax law disregards all intra-group transactions and allows the free movement of assets between group members without recognising any taxable gains or losses or needing to meet any formal rollover requirements.

There are also discrete rules relating to certain Australian resident wholly owned foreign subsidiaries of overseas parent companies known as MEC groups.

While the election to form a consolidated group is optional, once made it cannot be rescinded.

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GOODS AND SERVICES TAX

The Goods and Services Tax (GST) regime in Australia operates in a manner which is very similar to the GST regimes in Canada and New Zealand or the VAT regime in the United Kingdom.

GST in Australia is levied at the rate of 10% with exemptions for certain food stuffs, certain educational expenditure, medical expenditure, some religious activities, health and care products and some telecommunication supplies.

As in the countries mentioned above, the tax is intended to be levied on the final consumption of a good or service with the tax being progressively collected along the manufacturing and distribution chain.

CUSTOMS DUTIES

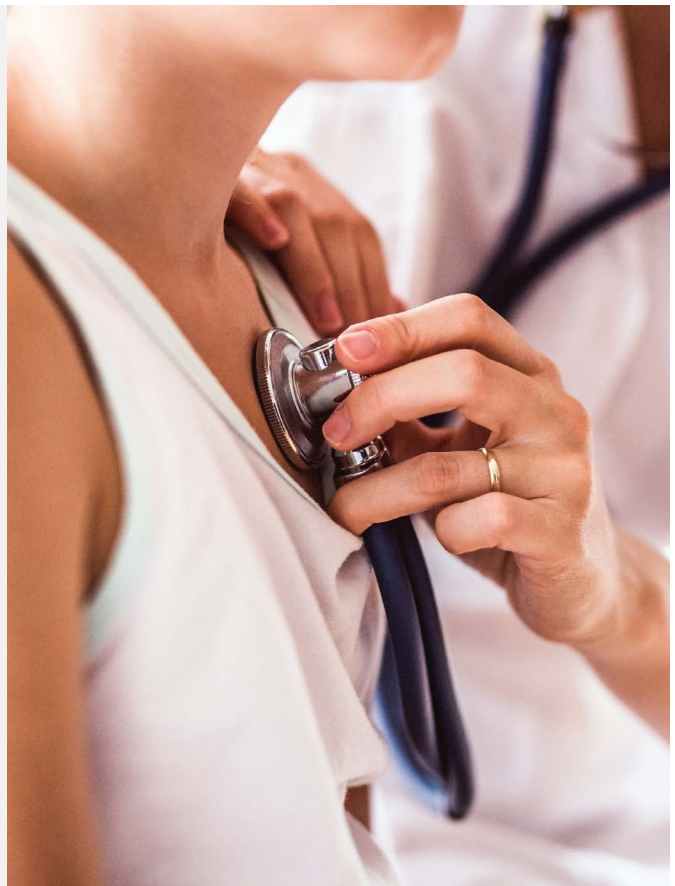
Customs duty is levied on the importation into Australia of some goods. It is payable by the importer.

FRINGE BENEFITS TAX

In Australia, if an employee receives a non-cash benefit as a consequence of his employment, then that benefit is taxed separately from income tax under a regime known as fringe benefits tax. Basically, the employer is assessed for the fringe benefits tax. The tax is calculated by reference to the value of fringe benefits paid to the employee.

As a consequence, many employees in Australia do not receive fringe benefits as part of their remuneration arrangements.

Where an employee receives a taxable fringe benefit, the employer usually takes the amount of fringe benefits tax into consideration when determining the total remuneration package payable to the employee.



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OTHER TAXES

STAMP DUTY

This is levied by the states and territories. There is no federal stamp duty. Depending on the relevant state or territory, duty may be levied on:

- A transfer of property (including a transfer of land)
- A lease of land
- A mortgage or other security
- A transfer of shares (where the company is “land rich”)
- A transfer of a business (in some states)

This is not a comprehensive list. Generally speaking, this is a tax which is payable by the purchaser. Many components of this tax are being phased out.

For instance, in Victoria, only transfers of land will attract stamp duty. However, if a company’s assets consist principally of land, a transfer of its shares may attract duty under the “land rich” provisions.

LAND TAX

Land tax is an annual tax levied only by the states and territories on the value of a landholder’s total holding of land in that state at a particular date, commonly 31 December. The tax is levied at a percentage of the value of all land owned by that landholder in the state. The maximum rate in Victoria is 2.25% for a landholder who holds land exceeding \$3 million in value and a maximum rate of 2% applies in New South Wales.

Certain classes of land, for instance farming land and principal place of residence, may be exempt from the tax. Where land is used for income producing, the relevant land tax expense would generally be deductible for income tax purposes.

PAYROLL TAX

- This is a tax levied on employers by the states and territories on the wages and similar benefits paid by employers to their employees. It was generally not levied on payments to contractors but recent amendments now incorporate certain payments under “relevant contracts” in certain states.
- Generally, payroll taxes will be deductible to an employer entity for income tax purposes.

ANNUAL VACANCY FEE

- Foreign owners of residential property that is vacant or not genuinely available for rent for at least 6 months per year will be charged an Annual Vacancy Fee. The fee will typically be the same amount as the foreign investment application fee.

ABOUT BENNETT & PHILP

Established in 1984, Bennett & Philp is a mid-tier law firm based in the heart of Brisbane offering end-to-end legal solutions for both business and individual clients. Our team offers a broad range of services us to support both Australian and international clients across every stage of business and life.

AREAS OF PRACTICE

We provide personalised service across six core areas of specialisation:



Business Advisory
Services



Disputes & Litigation



Intellectual
Property



Property & Real
Estate



Compensation
Law



Wills & Estates

WHY CHOOSE BENNETT & PHILP?

WE ARE RIGHT-SIZED

Large enough to deliver comprehensive legal services across the business life cycle. Small enough to care about every client as individuals.

Service excellence still means something to us. It's what differentiates us from some of the larger players in the legal services industry.

WE GENUINELY CARE

As a client of Bennett & Philp, you're more than just a number in our practice management system. We're your trusted partners, always on hand with the right advice when it matters.

We care about the growth of your business; and meeting your individual needs. As a law firm with the full range of business advisory and personal legal services, we can support you across every stage of life and business.

WE ARE A ONE-STOP-SHOP

Many firms don't offer both personal and professional services, which means engaging multiple providers to get the solutions you need. Not just a waste of your time; it means important issues can slip through the cracks.

We have trusted partners delivering complementary financial and personal services, so we can connect you with the right providers when you need them.

Contact us today and talk to us about how we can assist you in your situation.

