



商業信託  
Commercial Trust



## Country Profile: Australia

## The Facts

Location	Oceania, between Indian Ocean and South Pacific Ocean
Languages	English
Nationality	Australian
Religions	Protestant – 27.4% Catholic – 25.8% Other Christian – 7.9% None – 18.7% Others – 20.2%
Government	Federal Parliamentary Democracy and a Commonwealth Realm
Head of Government	Prime Minister
Legislature	Bicameral Federal Parliament
Constitutional Document	Commonwealth of Australia Constitution Act 1900
Economy	Australia is a major member of APEC, G20, OECD and the WTO. Australia owns one of the most modern and strongest economies in the world. The economy is dominated by the service sector. Mining and its related industries occupy the 2 <sup>nd</sup> largest sector in Australia. Due to the diverse natural resources, the economy has been growing gradually in the past decades.
Currency	Australian Dollar (AUD)
GDP (2011)	Total – AUD 1,441.78 billion Per capita – AUD 63,434 Real GDP growth – +2%
Population	22,015,600 (approx.)
Percentage of population	White – 92% Asian – 7% Aboriginal and others – 1%
Area	7,741,220 km <sup>2</sup>
Time zone	ACDT (UTC +10.5) ACST (UTC +9.5) AEDT (UTC +11) AEST (UTC+10) WST (UTC +8)
Public Holidays	National holidays – 8
Climate	Generally arid to semiarid; temperate in south and east; tropical in north



Sources: Australian Government, Central Intelligence Agency, International Monetary Fund

## Australia

According to the Index of Economic Freedom 2010 (IEF), Australia has been ranked as the thirteenth largest economy of the world with the fifth highest GDP (per capita) of \$66,984. In addition, the nation has been positioned second in the United Nations Human Development Index for 2011 and the first in Legatum's Prosperity Index for 2008.

Moreover, a majority of Australia's major cities rank high in the global comparative livability surveys. While Melbourne topped others and made its way to the *numero uno* position in the list of World's Most Livable Cities list ranked by The Economist in 2011, Sydney, Perth and Adelaide weren't far behind at the sixth, eighth, and ninth ranks, respectively.

## The Australia Business Climate

The foremost reason for Australia being considered an ideal place for investing or setting up a business is that it boasts one of the most transparent and regulatory business environments in the world. Through the effectively enacted proactive reforms, the government of Australia has demonstrated a healthy dedication to present investors with the right conditions and opportunities for diversification, growth and business expansion.

### Regulatory Standards

What comes as a surprise is that Australia is the world's third fastest country to start a business in, which takes a maximum of three days.

Unlike most nations, the government doesn't extend any control over the foreign exchange regulations in the country. Not just the currency even the capital flows, transfer of royalties, profit remittances, and the capital repatriation stay away from any kind of regulation.

The transparency in the government policy is at par with the best and is regarded as one of the best in the region, while Australia's regulatory and legal framework is rated among the world's top six economies for boosting enterprise competitiveness.

Further, the government has made consistent efforts to improve things like the intellectual property (IP) reform along with the business immigration to make sure that the environment is smooth and streamlined.

Considerable efforts have also been made to strengthen the labour market flexibility, industry deregulation, reductions in tariff barriers, trade liberalization, and the better the current tax system, all of which would result in robust productivities and will enable the businesses to be flexible in all economic conditions.



## Corporate Governance

Both government policies and corporate governance are in sync with the business imperatives. What can be tagged as a commendable feat is that the Australian corporate boards are positioned as the world's sixth most efficient. In addition, the country is also ranked seventh across the world and second in the Asia-Pacific region for the execution of ethical policies in the companies.

## Transparent System

As mentioned earlier, transparency is one of the important characteristics of the Australia and boasts of a translucent and professional public service. Because of which it is ranked among the best seven countries in the world with respect to transparency. Australia's value system and society have also been rated as the fourth most helpful and encouraging in terms of business competitiveness.

## Intellectual Property

A sound intellectual property structure is always significant and critical to the success and longevity of a business. And Australia scores here as well! It is ranked second in the Asia-Pacific region and eighth in the world for its competent enforcement of the intellectual property rights.

Additionally, the nation ranks thirteenth in regard with the cyber security measures and sixth for personal security and property protection dealings.

## Setting up a Business in Australia

### Business Structures in Australia

Before establishing a business you need to decide the business structure you should adopt. In Australia, the following are the structures that are legally viable to use:

## Sole Trader

One of the most straightforward and simple business structures, a sole trader is entitled to all the decisions, profits or the losses that the company makes. Although a sole trader can employ as many people as he wants, all the major business decisions are initiated by him.

An extremely uncomplicated structure, this type is ideal for the small scale businesses that don't involve a large number of outside capital.

### Advantages

- Minimal paperwork involved at the time of establishing the business.
- If you decide to use your name as the name of the business, you don't need to register the name of the business. This won't be the case if you choose a trading name.
- Comparatively flexible and less complicated reporting obligations.
- Deduction of tax losses from the personal income is a possibility in this structure.
- The owner itself is liable for the profits as well the ownership of assets.
- It is straightforward and easy to wind up this business structure.

### Disadvantages

- The owner is liable for all the losses and the debts.
- The personal properties of the owner may be exposed in case of failure to pay the debts
- A sole trader may have to depend more on the savings and the overdrafts as gathering extensive sums as the capital may be difficult.
- Continuity issues are very likely to arise at the time of an illness or death.

## Trust

A trust isn't a separate legal entity, just like the sole trader. It is a structure where the trustee, which in most cases is a company, carries out the operations of the business, representing the other members of the trust as well. To set up a trust, a trust deed should be agreed upon.

The diverse list of the types of trusts is mentioned below:

- **Discretionary trusts:** In this type of trust, the trustee holds the power and the authority to distribute funds to the recipient. A familiar example being that of a family trust.
- **Unit trust:** Here, the unit holders are entitled to have a share in the trust's units. The distribution takes place in accordance with the number of units occupied.
- **Hybrid trust:** This is an amalgamation of both the discretionary as well as the unit trust.

### Advantages

- A trust may be entitled to taxation advantages. This, however, depends on the prevailing tax laws.
- Consents income streaming;
- Is a less complex structure as compared to the others

### Disadvantages

- Probable after effects for the capital gains tax
- Sharing of the tax losses
- Administration and establishment costs may be more



## Company

A company is, in more ways than one, similar to a partnership or a sole trader, except for the fact that it is a separate legal entity and not the same as the owners. This implies that in almost all situations, the owner's personal assets can't be liable for the company's debts.

In Australia, the Australian Securities and Investment Commission (ASIC), regulates the companies and keeps a check on their proceedings. Being an independent government agency, the ASIC is entitled with the responsibility of administering the Corporations Act. It works towards proffering protection and security to the businesses as well as the consumers. In addition, it ensures that

- Companies operate according to the law.
- Regularly present a report on their activities
- Maintain proper updated records of all the transaction
- Maintain an updated information database that reflects the details of the company.

This business structure bifurcates into two categories, depending upon the extent of liability that can be imposed on the company's owners:

- **Company Limited by Shares:** restricts the shareholder's liability to their shares' value. This type of structure can suit almost all trading businesses whether it is a public company or a private one
- **Company Limited by Guarantee:** is usually used by the non-trading organizations like sporting or health clubs.

### Advantages

- A company is a separate entity from its owners
- The owner is allowed own property in the company's name
- Generally, the shareholders are entitled to a limited liability
- Running a company can enable you to benefit from the of tax minimization schemes
- A company can be operated as well as owned by a single director and shareholder
- Accumulating capital may be easier with a company due to shareholders' limited liability.

### Disadvantages

- This form can be highly complex as well as expensive to establish and run, depending on the scale of the company.
- Selling of shares may prove to be a tough task if you aren't the sole shareholder.
- If you own a minority shareholding in the company, your involvement in the company's affairs may be minimal.
- The procedure and reporting regulations involved in setting and running may be difficult to comply with.

## Partnership

In simple words, a business established and operated by two or more individuals is what is known as a partnership. However, partnerships can also be understood as formal or informal relationships between the suppliers, competitors as well as others present in the industry that usher in the competitive advantages for the company. Partnerships are generally setup for long terms, irrespective of whether they are formal or informal.

### Advantages

- Based on an uncomplicated philosophy of equal (according to the agreement, may not be equal in all the cases) sharing.
- Like profits, losses are also shared, ensuring that there is no pressure on any individual
- Sharing of business operation costs also acts as an asset and doesn't burden a particular individual

### Disadvantages

- Debts acquired by others may bind all the partners
- Personal assets may have to involve in adverse situations
- Conflicts may arise in the partnership, which can damage the business and its image
- Ambiguity and complication arises in case of death of a partner

In Australia, there are diverse laws that regulate partnerships in different areas of the country.

In some scenarios, the law may presume partnerships to exist, that means the partners may be liable for the personal unlimited liability in case of generation of debts, which can act as an uncalled for risk. In such a situation, it is better to seek legal advice in order to ensure complete security.

## Taxation

In Australia, the federal as well as state and territory governments manage the taxation legislation. If you plan to initiate a business in the country, you should be aware of the rules you need to adhere with respect to the taxation regulations.

The business owner should apply for a:

- Australian Business Number (ABN)
- Goods and Services Tax (GST)
- Tax File Number (TFN)
- Fringe Benefits Tax (FBT)

Besides the above, the owners may also need to pay the state tax, the pay roll tax and the territory land tax.



## Immigration and Visa Requirements

At the time of visa and immigration, investors need to carry the following documents with them.

- One fully completed and signed application form.
- One recent passport size photograph.
- Passport having validity for 3 months after returning; one blank page for the visa-sticker.
- Photocopies of all the pages of the passport as well as photocopies of all the above documents mentioned.
- Original official invitation from the company in Australia on a verified letter headed paper.
- Sufficient means of support, like the bank statement(s) (should not be older than a month), traveler checks or major credit card(s).
- Proper evidence of your occupation; original trade license or official letter inscribed on a letter headed paper from your employer.
- Health insurance that should be valid for the entire duration of the requested stay.
- Hotel/trip reservation(s), if any.

## Banking Requirements

Before you set your journey to Australia, you need to adhere to a few things so that the procedure of setting up the business runs without obstacles, especially with regard to following mentioned banking requirements.

One and a half months before arrival in Australia, you should:

- Set up a personal/business accounts
- Observe the exchange rate , which will enable you to transfer the money at the correct time

Three/four weeks before arrival in Australia, you should:

- Carefully make sure receipt of your account number(s)
- Transfer the necessary funds into the new account(s) created
- Exchange some amount of money to Australian Dollar from the currency of your homeland

## Reference

ASA Group	<a href="http://www.australia-migration.com/page/Starting_a_Business_in_Australia/132">www.australia-migration.com/page/Starting_a_Business_in_Australia/132</a>
Central Intelligence Agency	<a href="http://www.cia.gov">www.cia.gov</a>
International Monetary Fund	<a href="http://www.imf.org">www.imf.org</a>
Australia Government	<a href="http://australia.gov.au">australia.gov.au</a>
Hall & Wilcox Lawyers	<a href="http://www.hallandwilcox.com.au/international/Documents?HW_GuideForSetUpBusInAus_Sept11.pdf">www.hallandwilcox.com.au/international/Documents?HW_GuideForSetUpBusInAus_Sept11.pdf</a>

## Contact

Website: [www.cmltrust.com](http://www.cmltrust.com)

Email: [inquire@cmltrust.com](mailto:inquire@cmltrust.com)

Tel: +852 2162 7371