



SETTING UP A BUSINESS IN AUSTRALIA - THE BASICS OF SELF-EMPLOYMENT

The purpose of this factsheet is to deal with the compliance issues facing a person or persons that want to start a business in Australia, whether as a sole trader, or in partnership with others. It does not deal with other issues that form the basis of a well planned commencement, such as the contents of a detailed business plan, or, if a business is being bought, the desirability of a full enquiry into historical results and future projections produced by a vendor.

Business Structure

Firstly, a few words about the choice of business structure. In general, there are three options: sole trader, partnership, and a private company. There is also the option of setting up a trust, but this is outside the scope of this factsheet.

The sole trader route remains the most easily understood option and set up costs are usually low. Start-up losses can frequently be offset against the taxpayer's other assessable income, and for this reason alone it can often be best from a tax planning point of view to start as a sole trader, before incorporating at a later date once profitability is well established, thereby making use at a later date of the lower tax rates on profits that apply to limited companies. The downside of using this type of business entity is the sole trader's personal exposure to the business's obligations should it get into financial difficulties.

A partnership (maybe including the taxpayer's spouse or *de facto* spouse to mitigate the tax payable) is another option. Again, reasonably easy to understand and cheap to set up with similar tax advantages to the sole trader option, although both partners are exposed in the event of the failure of the business, and one partner can bind the other in financial commitments. It is possible to form a limited partnership in some States (where the limited partners have limited liabilities), but such entities are taxed as if they were companies and so forego the tax advantages attaching to a general partnership.

A limited company offers certain tax advantages as income not distributed (ie retained in the business) can often be taxed at a lower rate than would be suffered if the business were carried on by an individual as sole trader or partner. The personal liability of the business owner (shareholder) in the event of business failure is usually minimal, and there is usually more scope for making fully deductible superannuation contributions in a limited company as compared to the sole trader or partnership situation. All that said, the costs of setting up a private company are higher, as are ongoing compliance costs.

Compliance Issues

Turning to the compliance issues attaching to self-employment. In Australia, generally all resident individuals earning more than the tax-free threshold (\$6,000 for 2000/01) are required to complete and file a Tax Return, and as such there is no requirement to notify the Australian Taxation Office of the commencement of self-employment by a particular date, as is the case in the UK, so long as the taxpayer files his or her Tax Return on time (however note the financially compelling aspects of obtaining an Australian Business Number from the ATO discussed below.) The Tax Return is normally to be submitted by 31 October following the end of the income year (this deadline is extended when the Return is lodged through a tax agent), and can be lodged on paper or electronically.

If you are starting a business you should obtain an Australian Business Number (an ABN) from the Australian Taxation Office - in the absence of an ABN quoted on invoices your customers must withhold tax at the rate of 48½% when settling any sums you invoice - a significant cash flow disadvantage and a compelling reason to apply for an ABN at an early stage. Note also that the same identifying number must also be used on invoices once the business has registered for the Goods and Services Tax - inclusion of the ABN on invoices makes them "tax invoices" - see our separate factsheets for details on the GST.

You may also have to register your business name, as if you are not carrying on a business in your personal name there is a general legal requirement to register the business name (and the owner of the name) in all States and Territories in which the business is carried on.

In addition, depending on the nature of the business to be carried on, there may be a requirement to obtain one or more of the plethora of licences issued by the State or Territory Government in which it is intended to carry on the business.

With regard to the payment of income tax, once the business has been established for a period of time, and after the first income tax return has been filed, payments will be required under the Pay As You Go system. PAYG broadly requires the reporting and paying of instalments on account of the business's tax liability via a quarterly Business Activity Statement (if the business is registered for GST), or an Instalment Activity Statement (if it isn't). These PAYG instalments will then be taken into accounts once the income tax return has been filed - at which point any further payments or repayments due are determined.

Note also that in general a new business does not pay any PAYG instalments in year 1 (unless the taxpayer wants to make voluntary PAYG payments), and as such pays the whole tax liability once the first tax return is filed after the new business has commenced.

Further Assistance

We will be pleased to advise further on the tax issues relating to setting up a business in Australia. If you require any assistance with other issues affecting the setting up of a business, including registering your business with the authorities, please let us know, or contact our sister company, The Go Matilda Trading Company Limited, which has an office in Melbourne:

Telephone +61 3 8530 7030
Or Email info@gomatilda.com

If you want to speak to someone from Go Matilda please leave your contact telephone number and an advisor will be pleased to call you back to discuss how they can help you satisfy the registration requirements.

The contents of this factsheet are necessarily a general overview of a very detailed subject. The situation may change as tax legislation can alter quickly and we therefore strongly recommend that you take professional advice about your personal circumstances before placing any reliance on the contents of this factsheet. Collett & Co Chartered Accountants can be contacted by email on info@collettandco.com, by telephone on 02380 488 786 (ask for Alan Collett), or by writing to us at Enterprise House, Ocean Village, Southampton, Hampshire, England, SO14 3XB. We will be happy to provide a 15 minute telephone appraisal without charge. The contents of this factsheet are subject to Copyright - click on the word "Copyright" at www.collettandco.com for details.