Is your Kiwi business expanding into Australia?

11 vital questions answered
by the financial and accounting gateway that gets it done.

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Do I need a presence in Australia?

- Depends on the nature of your business and your business model;
- Kiwis importing goods (and some services) into Australia may have GST liabilities, but not income tax liabilities;
- If GST liabilities arise for Kiwis importing into Australia – the deferred GST system can improve cash flow!
- Some businesses want to be seen as Aussie, so incorporate here.

What are my structuring options?

- There are various structuring options, including:
  - an Aussie branch (NZ entity operates directly in Aussie);
  - an Aussie subsidiary;
  - an NZ look through company (LTC);
  - an Aussie LTC?
  - an NZ trust;
  - an Aussie trust;
  - a partnership;
  - a limited partnership.

Which structuring option should I use?

- Depends on your particular circumstances (no one-size-fits-all approach), however, relevant factors include:
  - how are you structured in NZ?
  - does the structure give rise to double taxation (Aussie & NZ)?
  - do any structures provide flow through for tax paid in Australia?
  - what are the tax implications on exit?
  - what is the cost of set-up and ongoing compliance?

How long does it take to set up a company in Australia?

- Australia requires at least 1 Aussie resident director;
- allow 6-8 weeks for company set-up and relevant registrations;
- proof of identity requirements dictate that certified copies of various documents be provided.

Seconding employees to Australia

- Australia generally taxes from first $1 of Australian source income; however
- under Aussie/NZ Double Tax Agreement, Kiwi resident taxed only in NZ if physically in Australia for no more than:
  - 90 days in a 12-month period; or
  - 183 days in any 12-month period (subject to meeting certain critieria).

What are the key tax compliance dates?

- Income tax year: 1 July – 30 June;
- Fringe benefits tax year: 1 April – 31 March;
- GST periods: generally quarterly;
- State/Territory payroll tax: monthly (if payroll > tax-free thresholds);
- Substituted accounting periods (SAPs) may be obtained to align Aussie & NZ income tax years;
- PAYG withholding: small (quarterly); medium (monthly) and large (bi-weekly).

Does Australia have a withholding tax regime?

- Final withholding tax regime for:
  - dividends - 30%;
  - interest - 10%; and
  - royalties - 30%;
- Under Aussie/NZ Double Tax Agreement, domestic rates above reduced as follows:
  - dividends - 0%, 5% or 15%;
  - royalties - 5%;
- Note - fully franked dividends are not subject to dividend withholding tax.

What happens if I move to Australia?

- Will you become an Australian tax resident?
- If so:
  - are your assets brought into the Aussie tax net and at what value?
  - will you get tax credits for any foreign tax paid going forward?
  - should you hold your assets in a different structure pre-arrival?
  - what about your NZ companies & trusts?
- Will you be an eligible 'temporary resident' (foreign assets/income remains outside Aussie tax net – potentially forever)?

Are there ongoing reporting requirements?

- Registered foreign companies (with an Australian branch) must lodge financials with ASIC (unless exempted).
- Foreign company-owned large proprietary companies must lodge financials with ASIC.
- Foreign company-owned small proprietary companies must lodge financials and a directors report with ASIC (unless exempted).
- What's large? What's small? How do I apply for exemption? *Get in touch!*

Hiring Aussie staff?

- Employee on-costs include:
  - PAYG withholding;
  - payroll tax (if > tax-free thresholds);
  - superannuation guarantee (9.5%);
  - workers compensation insurance;
  - statutory and/or award conditions (minimum wage, penalty rates, holiday, sick leave);
  - directors can be personally liable for unpaid PAYG and SG in certain circumstances.

Transfer pricing

- TP aimed at ensuring related-party cross border transactions are conducted at arm's length;
- must have contemporaneous documentation in place to avoid minimum 25% penalties in the event of a shortfall;
- ATO adopts administrative concession, allowing eligible entities to avoid costly and complex TP documentation requirements (but documentation still required).

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