Why Us? Our

Our Team

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A Guide to setting up in AUSTRALIA

Plan for tomorrow by UNDERSTANDING today.





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Registering in Australia

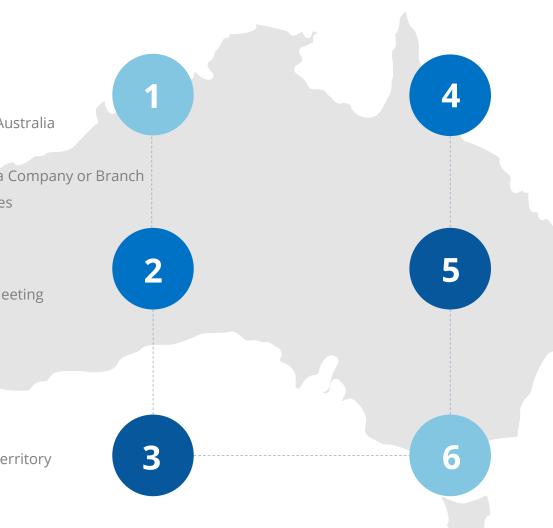
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1.0 Introducing Australia

A great place to do business

Multinational companies view Australia as presenting the best case for regional headquarters to target the dynamic Asia Pacific region. Key business centres include Sydney (NSW), Melbourne (VIC), Brisbane (QLD) and Perth (WA). Australia is a leading financial centre in the Asia Pacific region. There is a strong and enduring tradition of democracy in Australia where rule of law and frameworks prevail.

The Australian economy

Australia has one of the strongest, most competitive, open and flexible economies in the world. Australia is one of the largest economies in the Asia Pacific region after Japan, China and Korea.

Australian time zone

Australia's time zone varies depending on the time of year, either operating Australian Eastern daylight Time (AEDT) or Australian Eastern Standard Time (AEST). During AEDT the offset is UTC/GMT + 11hours, during AEST the offset is UTC/GMT +10 hours.

The Australian lifestyle

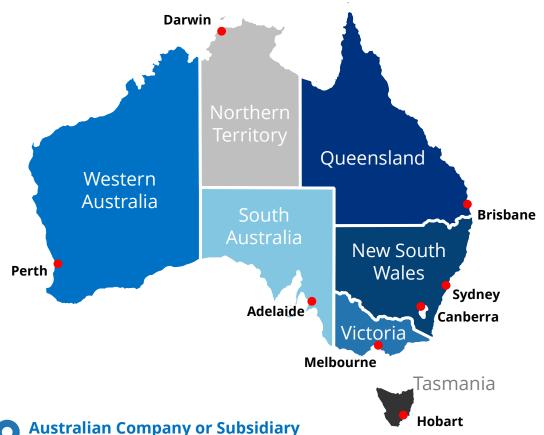
Australia has one of the world's best lifestyles and has much to offer expatriates and their families. As an industrialised continent, it is blessed with an abundance of minerals and agricultural resources and is a warm weather climate.

The work force

Australia offers a multilingual, highly educated and skilled workforce. Australia has a comprehensive education and training system. Australians also possess a diversity of language skills with approx. 15 per cent of the population speaking a language other than English.

Australian states and capital cities

Australia is comprised of six states and two territories, as shown below.



Australian Company or Subsidiary

Establishing a new Australian company or subsidiary operating as an Australian company is a legal entity. In Australia, you must be registered with the Australian Securities and Investments Commission (ASIC).

Even if you decide to carry on business in Australia as a foreign company, you need to be registered as such with ASIC. You will need to be eligible to do so and comply with ongoing regulations.



1.1 Registering of a Business in Australia

Company, Branch or ABN only

In establishing operations in Australia, there are 3 options that an overseas company may choose between:

- 1. Local company (also known as a 'Subsidiary' or 'Private Company',
- 2. Registered Foreign Company (also known as a Branch) with an ARBN, or
- 3. ABN only registration. When this is suitable (see point 1.3).

A company

A company is a corporate entity and lets you conduct business throughout Australia. Most companies in Australia are set up as proprietary companies that are limited by shares. (see 1.3 for more details). **In Australia the most common business structure is a company.**

Registered Foreign Company ('a branch')

A foreign company is one that is incorporated outside Australia. A foreign company can register with ASIC, allowing it to carry on business in Australia. Upon registration, the company is issued with an ARBN (Australian Registered Body Number) and is required to provide annual reporting directly to ASIC. If at any point the branch operations are such as to constitute carrying on a business, it will be necessary to register the overseas company as a foreign company in Australia.

1.2 Registration of a Company

Australian company law

The administration and control of Australia's Corporations Law is centralised with ASIC. The individual states and the two territories are now seen as regions for the purpose of the administration of the law with each region having a corresponding law to each of the other regions.

A company can be incorporated as a proprietary company or a public company. In Australia, the most common business entity is a company limited by shares. These can be either proprietary or public companies.



A Proprietary company

A proprietary company (commonly referred to as a private company) is limited by shares and includes in its Constitution (or ASIC Replaceable Rules, if a Constitution is not adopted by the company) that it may:

- Have no more than 50 shareholders
- Not engage in any activity that would involve the issue of a prospectus, except share offers to existing shareholders or employees.

There are no requirements at law for restrictions on share transfers. However, this can be provided for in the company's constitution. Accounts reporting and audit requirements for a proprietary company depend on whether it is categorised as small or large.

A Public company

A public company is defined to be a company which is not a proprietary company. Some of the differences between a proprietary and public company are as follows:

- Directors A proprietary company is required to have at least one director who must ordinarily be a resident in Australia and a public company is required to have at least three directors, of whom two must ordinarily be residents in Australia
- Accounts and audit requirements differ
- Only public companies may be listed on the Australian Security Exchange Limited (ASX).







1.3 Registering an ABN without a Company or Branch

ABN registration will be required if a non-Australian company is looking to do business in Australia. They generally have the option to incorporate a subsidiary company in Australia however if a non-Australian company is engaging in limited business and do not intent to have a permanent establishment than they need to apply for an ABN and register for Goods and Sales Tax (GST) only.

A permanent establishment includes a fixed place of business through which an enterprise either wholly or partially carries on its business. Generally, a website that is hosted by an independent internet service provider is not regarded in itself as constituting a permanent establishment in Australia.

In addition, some Australian online marketplaces may require non-Australian businesses to have an ABN to sell goods or services through their platform. For example, Amazon requires all sellers to have an ABN or an Australian Business Registration (ABR) to register for an Amazon seller account.

Overview of GST

GST is a broad-based tax of 10% on most goods and services sold or consumed in Australia. In accordance with the GST rules, supplies made by non-residents will be considered a taxable supply in certain situations, for example, where the supply is connected with Australia and the non-resident is registered or is required to be registered because its GST turnover from supplies connected with Australia is \$75,000 or more.

It's important for non-Australian companies engaging in activities in Australia to understand their obligations under Australian tax law and to comply with any requirements for ABN registration and reporting. Failure to comply with these requirements can result in penalties and other legal consequences.



1.4 Recurring obligations & fees



For proprietary and public companies

A proprietary company is required undertake ASIC Annual statement (Company Statement) compliance for each calendar year at a current fee of \$310.00 (this is increased almost every other year), while the fee for a public company is \$1,440.00.

The Company Statement contains company's current details including addresses, officeholders, members, share capital and ASIC invoice. The details of the company in Company Statement need to be checked and directors need to pass a solvency resolution that in their opinion, the company will be able to pay back its debts when they are due.



For branch

A registered foreign company is required annually to lodge with the ASIC:

- A copy of its balance sheet made up to the end of its last financial year
- A copy of its profit and loss account for the last financial year
- A cash flow statement

In such a form, containing such particulars and including copies of such documents as it is required to be prepared by the laws of its place or origin. The documents are to be accompanied by a statement in writing in prescribed form (ASIC Form 405), verifying the copies are true copies of the documents required. At present, a fee of \$1,433 is payable on lodging these documents with the ASIC.

Certain other obligations are imposed on registered foreign companies, principally in notifying the ASIC of any change in its filed particulars, such as offices, agents, registered address, cessation of business, etc.



2.0 Accounting Requirements

The Corporations Act contains detailed requirements relating to company accounts and audit procedures. These requirements relate only to companies incorporated in Australia.



Public companies

Public companies have comprehensive accounting and audit requirements in line with international accounting and auditing standards. Azure Group are experienced in providing advice and can support you with the specific Corporations Law requirements attached to public companies.



Proprietary companies

The accounting and auditing requirements for a proprietary company depend upon whether the proprietary company is categorised as large or small. A proprietary company is classified as small if it meets two of the following three criteria:

- (i) Consolidated gross operating revenue is less than \$50 million a year
- (ii) Consolidated gross assets are less than \$25 million at year end
- (iii) Number of employees at year end is less than 100 for that entity and all controlled entities.

The proprietary company is otherwise categorised as large.

Large proprietary companies and small proprietary companies controlled by foreign corporations

Large companies incorporated in Australia, and small companies directly controlled by foreign companies not otherwise exempted, are required by the Corporations Law to prepare their accounts in accordance with approved accounting standards. The company is also required to keep such accounting records as correctly record and explain the transactions of the company and from time to time, give a true and fair view of the company's accounts.



Accounting Requirements



Small companies

Generally, a small proprietary company is not required to prepare financial statements unless:

- (i) Within 12 months of year end, they are requested to do so by shareholders holding five per cent or more of the voting shares in the company; in which case it must comply with the request by the later of two months after the request or four months after the balance date
- (ii) Within seven years after year end, they are requested to do so by the ASIC; in which case it must comply with the request by the deadline given under the request.
- (iii) The small proprietary company is foreign-controlled, but the foreign company that is in control, is registered with ASIC as a foreign company and lodges consolidated financial reports that include the activities of the Australian company for the period that control exists
- (iv) The small proprietary company is controlled by foreign companies that are not part of a large group. In this case, you are not required to appoint auditors or prepare or lodge financial reports if the directors resolve to rely on relief provided by ASIC Corporations (Foreign-Controlled Company Reports) Instrument 2017/204. Small proprietary companies which are controlled by a foreign company, but which are not part of a large group, are required to lodge a form for exemption with ASIC and pass a resolution of directors within the deadlines set out in ASIC Corporations (Foreign-Controlled Company Reports) Instrument 2017/204.

Registered foreign companies

A registered foreign company is generally not required to prepare financial statements which comply with the provisions of the Corporations Act. If the ASIC is not satisfied those documents sufficiently disclose the company's financial position, it can request that complying accounts be prepared in the form stipulated by the ASIC including audited financial statements if necessary.

2.1 ASIC lodgement and general meeting requirements

Every company is required to lodge certain notices with the ASIC. In addition to annual returns, these include details of any change of officers, addresses, share structure and terms of special resolution of the company, and for the changes in constituent documents etc.

An annual general meeting is only required for both small and large proprietary company when events required by law or the company's constituent documents require it, such as auditor/director appointment or dividend approvals take place. Constitution may be appropriately drafted to limit the need to hold general meetings.

Directors can pass resolutions by holding Director meetings or circulating a resolution which becomes effective upon the last Director's signature.

A GUIDE TO SETTING UP IN AUSTRALIA



2.2 Legal requirements

Resident Director

For any overseas company looking to establish an Australian subsidiary, it is a necessary and a regulatory requirement to appoint at least one Resident Director who is an Australian resident.



Public Officer

Every company carrying on a business in Australia is required to have at all times a public officer who is required to be appointed within three months of the company commencing to carrying on a business in Australia or of it first deriving income in Australia. The public officer must be a natural person, over 18 years of age, who ordinarily resides in Australia. The public officer of a company is answerable for the doing of all such things required to be done by the company under the Income Tax Legislation.



Company Secretary

The role of company secretary involves a range of responsibilities including corporate governance, communicating with the board of directors, senior management and shareholders, ensuring compliance with statutory and regulatory requirements and much more. It is not a mandatory requirement to appoint a Company Secretary in Australia, however it is good business practice.



Bank Account set up services

We understand the importance of ensuring a bank account is operational to allow the business to transact funds into and out of the Country. Globally, the process of applying for and being granted a bank account is becoming further scrutinised and can be a difficult and timely process.



Legal requirements



Substituted Accounting Period (SAP) services

In Australia, the year end defaults automatically at 30 June annually. You may elect to amend the year end to mirror that of your parents, to align you financial reporting and annual compliance. We can assist you with applying for a SAP including preparation of company resolutions to approve year end, preparation of ATO documentation to amend the year end, preparation of ASIC notification to amend the year end, lodgement of all documents with respective bodies.



Audit relief application

In Australia, the Corporations Act requires that small proprietary companies who are foreign owned, are required to prepare their accounts in accordance with approved accounting standards and have these audited and lodged with ASIC annually. In recognition of the disproportionately high cost small proprietary companies would face in complying with the financial and directors' reporting and filing obligations under the Corporations Act, ASIC offers relief from this requirement in certain circumstances.



Insurance requirements

It is a requirement to have Workers Compensation and is highly recommended putting in place adequate insurances for the company in Australia. Workers compensation is a compulsory statutory form of insurance for all employers in every state and territory of Australia and provides protection to workers if they suffer a work-related injury or disease. It is not mandatory for Public Liability or Director Liability cover, however it is important to console such policies to protect the business from future risks.





Legal requirements



Tax File number (TFN) registration

A tax file number is issued by the Australian Tax Office (ATO) to each taxpayer to enable the ATO to match information it receives about income earned by taxpayers with details disclosed in their tax returns. The company must apply to the ATO for a tax file number on the appropriate form and supply a copy of the Certificate of Incorporation for identification purposes.



PAYG Withholding Tax

Under the Income Tax Assessment Act, an employer is required to withhold and subsequently remit to the Australian Taxation Office the appropriate income tax payable by employees on the remuneration being paid to them. PAYG Tax withheld from employees' salaries is required to be paid to the Australian Taxation Office. The company must first register as a group employer.



Superannuation guarantee charge (SGC)

SGC legislation requires most employers to pay a minimum of 9.5% of the employees' ordinary time earnings as super. If paid on time, these payments can be claimed as a tax deduction. There are plans to increase this to 12% by 2025. A tax is imposed by the Government on employers who do not provide a prescribed minimum level of support for employees. The minimum level of support is expressed as a percentage of each employees' salary. To avoid liability for the charge, employers are required to contribute the prescribed minimum level of support for their employees within a specified period. The required level of contribution will be measured annually.





3.0 Australian Tax

For tax purposes, a company will be required to keep sufficient records of its income and expenditure as to enable its assessable income and allowable deductions to be readily ascertained and to retain those records for a period of at least five years. Finally, the Income Tax Assessment Act will require the company to have a fixed accounting period, being a period of 12 months, other than in the first year. The Australian tax accounting year is 1 July to 30 June, although, if it is more convenient and with the permission of the Commissioner, a substituted accounting period may be adopted to comply with its parent company's accounting period.



Payment of dividends (repatriation of profits)

Withholding tax is not payable on profits remitted from a branch. However, withholding tax will be payable on profits remitted as dividends from an Australian resident company to its offshore holding company to the extent Australian income tax has not been applied to the profits (i.e. unfranked dividends). No dividend withholding tax is payable if fully franked dividends (i.e. dividends derived from profits of which Australian corporate tax has been paid) are paid by an Australian subsidiary to its foreign parent. To the extent that dividends are unfranked, dividend withholding tax of 30 per cent (or as reduced under the relevant double tax treaty) is payable on the gross unfranked amount.

Income tax

A company is an Australian resident for income purposes if it is: (i) Incorporated in Australia

(ii) Not incorporated in Australia but it carries on business in Australia and either its:

• central management and control are in Australia

shareholders, who are Australian residents, control the voting power.
 Company income is taxed at 27.5% for companies with turnover of up to \$10 million, with all others taxed at 30%. Taxable income is calculated in the same way, except an Australian company is taxed on income from all sources, whereas a branch is taxed only on Australian sourced income.
 There are, however, a number of differences in the tax implications of operating through a branch or Australian company which need to be considered.

Fringe benefits tax (FBT)

An additional tax which is levied by the Commonwealth Government on employers is a tax on the value of non-cash benefits provided to employees. These non cash benefits may include such items as a fully maintained motor vehicle, payment of private telephone bills, the provision of rent accommodation, interest free loans etc. FBT is currently levied at the rate of 47 per cent on the value of the non-cash benefits provided during the 12-month period ending 31 March each year. The tax may generally be payable in quarterly instalments.





Australian Tax

Treatment of tax losses

Losses arising from the Australian operation are trapped in an Australian company but they can be carried forward indefinitely to be offset against future years' profits. A deduction for prior years' losses will be denied where the company cannot satisfy a continuity of ownership test or a same business test.

In a branch, losses arising from the Australian operations are available to be carried forward to be offset against future profits of the branch. Reference should be made to the foreign company's domestic income tax laws as to the availability of tax losses.

Capital gains tax

An Australian company is liable to income tax on profits on the disposal of assets, whether the assets are situated in Australia or overseas, whereas a branch is only liable to tax on profits associated with the disposal of "Taxable Australian Assets", that is, those assets used by the foreign company in carrying on a business through a permanent establishment in Australia. Assessable capital gains are included in a company's taxable income and taxed at the company's applicable Income Tax rate.

Transfer Pricing

There are strict provisions applying to both Australian companies and branches of foreign companies ensuring dealings between related parties are on arms'-length terms and conditions.



Debt funding of an Australian company

Interest paid by an Australian company to a foreign non-resident lender entity is subject to an interest withholding tax of 10 per cent, although this may be impacted by Double Taxation Agreement. However, if the owner of the non-resident lender has a permanent establishment in Australia and the interest is connected with the permanent establishment, the interest paid would be taxable by assessment in Australia.

Payroll tax

Payroll tax is imposed in all states and territories at rates which may differ depending on the amount of the payroll. Each state has enacted its own legislation, amendments and regulations and therefore the various responsibilities on employers differ as do the entitlements and procedures adopted by each of the various payroll tax collection offices. For the 2023/24 financial year, the current rate in New South Wales is 5.45 per cent of payroll exceeding the tax-free threshold of \$1,200,000 p.a. for the 2023/24 financial year.

Workers' compensation

Every employer in New South Wales is required to carry workers' compensation insurance in order to protect employers and employees from financial hardship in the event of a workplace injury. As soon as the company commences operations in Australia, the appropriate workers' compensation insurance should be taken out.



3.1 GST

Since 1 July 2000, a goods and services tax (GST) has been in effect in Australia. This GST is effectively a tax of 10 per cent applied to the consumption of most goods, services and property in Australia (including imports). GST is not normally applied to goods or services exported or consumed outside of Australia. **Key points to consider:**



If an entity is carrying on a business and its GST turnover equals or exceeds the annual GST registration turnover threshold, it must register for GST. As at 1 July 2023, the GST turnover threshold is \$75,000 p.a. (\$150,000 for non-profit entities).



A registered entity is legally liable for GST of 10 per cent on the supply of most goods, services or intangibles, except if the supply is 'input taxed', 'GST-free' or 'outside the scope' of GST. Normally GST is part of the contract price and recovered from the recipient at the time of supply by the supplier.



For imported goods, GST equalling 10 per cent of the goods' value is payable, subject to certain exemptions. GST payable also includes the goods' customs value, customs duty and any transportation costs, like insurance, associated with bringing the goods into Australia, to the extent they have not already been included in the customs value. GST from importers is collected by the Australian Customs and Border Protection Service when the goods are imported into Australia, unless the entity has registered for the deferred GST scheme.



A GST credit can generally be claimed by for GST paid on items acquired in carrying on a business. However, input tax credits are not available for acquisitions in relation to creating input-taxed supplies, or for any goods or services acquired or imported for private consumption.



For the suppliers with annual GST turnovers less than \$20 million, GST returns are to be lodged quarterly. Suppliers with GST turnovers of \$20 million or more are to lodge monthly electronically. Suppliers not required to be registered for GST can elect to lodge GST returns annually. There may be some service importations taxable under a 'reverse charge' rule.

4.0 Foreign Investment

The Foreign Investment Review Board (FIRB) assesses proposals by foreign entities to invest in Australia and makes recommendations to the Government on their approval under the Government's Foreign Investment Policy and also if they comply with the Foreign Acquisitions and Takeovers Act 1975.



Foreign individuals

A foreign person is defined as:

- A natural person, not ordinarily resident in Australia
- A corporation in which a natural person not ordinarily resident in Australia or a foreign corporation holds a controlling interest
- A corporation in which two or more persons, who are either a natural person not ordinarily resident in Australia or a foreign corporation, holds an aggregate controlling interest
- A trustee of a trust estate in which a natural person not ordinarily resident in Australia or a foreign corporation, holds a substantial interest
- The trustee of a trust estate in which two or more persons, who are either a natural person not ordinarily resident in Australia or a foreign corporation, hold an aggregate substantial interest.



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Foreign Investment

Controlling (substantial) foreign interest

A controlling (or substantial) foreign interest exists when a single foreign person (and any associates) holds 15 per cent or more of the ownership or voting rights or where several foreign persons (or any associates) hold a combined ownership or voting rights of 40 per cent or more of any corporation, business or trust.

Investments requiring FIRB approval

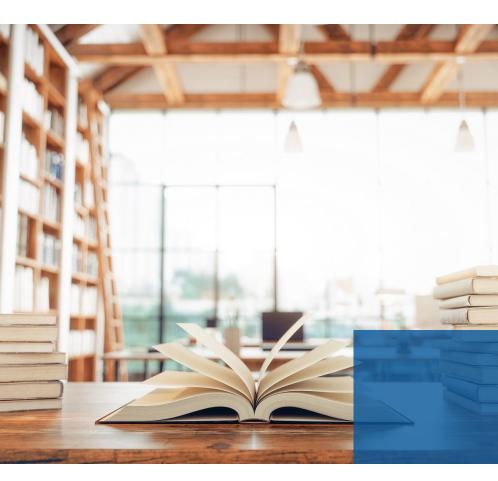
You should be aware that under the Foreign Acquisition and Takeovers Act 1975, foreign individuals or foreign owned companies must seek approval from the FIRB before purchasing significant interest in urban real estate, certain shares of Australian owned private companies, or shares in foreign companies which own Australian assets.

It is important you seek advice on the above prior to entering into any transactions.

Foreign companies carrying on a business in Australia can sponsor individuals on a Temporary Business Visa (subclass 457 visa) to come and work in Australia. These individuals can be employed in a specified position within the company for a period of up to four years.



4.1 Significant Investor Visa Scheme



The Australian Government has introduced a visa pathway for migrant investors coming to Australia, known as the Significant Investor Visa Scheme (SIV). SIV offers a four-year pathway to permanent residency for entrepreneurial and high net worth individuals willing to make substantial complying investments in areas of the Australian economy that will drive innovation and the commercialisation of Australian ideas. Applicants must make investments of at least 5 million Australian dollars into three provided investment options:

- Commonwealth, State or Territory government bonds
- Australian Securities and Investment Commission (ASIC) regulated managed funds with a mandate for investing in Australia; and
- ✓ Direct investment into Australian proprietary companies.



Azure Group is here to provide professional advice on structuring your investments in Australia and to safeguard your investment risk.



"We believe in delivering remarkable outcomes for our clients by taking the time to UNDERSTAND where they have been, where they are now and where they want to be."

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5.0 About Azure Group

Partner with a team of industry leading accountants and advisors to drive your financial and business success. Azure Group is a leading Chartered and Commercial Accounting firm in the Asia Pacific region with offices in Sydney and Shanghai. We have built a team of commercial and technical experts capable of managing the accounting, legal, statutory and financial reporting obligations for subsidiaries of international groups and growing entrepreneurial business.

Azure Group have long established themselves as a leading accounting service provider in Australia. We have adopted sophisticated IP and Technology that allows us to streamline the way we work with international clients. Our significant international technical expertise and presence in both Australia and Asia allows us to add value to the growing demands of international clients. We are able to tap into a long list of trusted alliance relationships offering value added services to your business.





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5.1 Our International Team

Azure Group has built a dedicated International Client Service Team with the necessary experience and knowledge in the Australian Corporations Law and other Compliance & Regulatory requirements in Australia to assist your company establish and maintain its Australian presence. Our team are industry leaders holding various qualifications across Accounting, Law, Governance, CA & Master of Tax, AICD, ASX, COSCES. We have acted on over 1000 clients in managing Governance and local Australian regulatory requirements.



5.2 Why partner with us?





Natalie Jones, XLNC Steering Committee member

"Being part of an established international network, such as <u>XLNC Global Alliance</u>, means we can be confident of referring clients to member firms in other territories, knowing they won't let us down."

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- ✓ Holistic Service Offering coordinated through a dedicated lead client service partner.
- ✓ Commitment, Passion and Expertise supporting business.
- People Expertise. Our team combines senior hands-on commercial skills and chartered accounting technical skills to deliver expert solutions.
- ✓ Significant international technical expertise and presence.

Azure Group is long established as a leading accounting service provider to International subsidiaries setting up and operating in Australia and China. We have adopted sophisticated IP and technology that allows us to streamline the way we work with international clients to ensure success.



5.3 Our Services

Azure Group uphold a reputation for being a proactive, hands-on firm that delivers smart, innovative and revolutionary services to match the demanding needs of today's business. We attract, retain and develop people who show the same ethos and passion.





Business Accounting

Partner with the industry leaders in strategic tax structuring and minimisation. Our highly qualified tax advisors from Big4 + Mid Tier firms are here to support complex tax & accounting needs and add significant value to your Our Business Accounting solutions offer a consistent and reliable system of reporting your financial performance to help you grow your business and plan for the future.



Fundamental to your business success is the role we play in devising strategic outcomes that allow you to deliver new projects and complex transactions. We work creatively, utilising "out of the box" thinking to deliver superior results for your business.





At Azure Group we are inspired by tech entrepreneurs that dedicate themselves to the next big idea and building successful businesses.



As a leading International Accounting firm, Azure Group has built a strong reputation for assisting offshore clients set up and maintaining their operations in Australia.



Establishing your business footprint in a foreign country can present many challenges. Partnering with Azure Group takes the guesswork and risk out of doing business between Australia and China.







"Based in the UK we are operating from several countries, Azure is for sure the most effective and professional advisors we are working with. First to answer my quote request, I knew they were great professionals, and I can confirm now. They helped us setting up our Australian company, and currently in charge of our monthly payrolls, BST returns, and more. Always available, they are partner you can trust. Highly recommended."

– Romain Moulinas

"I have worked with Michael and the team at Azure Group for the past 8 years. As a firm who offer an array of financial services, they always have found a solution that fits our business to maximise income, manage cash flow, set budgets and report our monthly financials. Azure Group have also been instrumental with the expansion and setup of our business in London, New York, Sweden and Asia."

– Bean Media Group, Daniel Di Loreto





About Us

Our Team

Why Us?



Plan for tomorrow by UNDERSTANDING today.



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