

HOW TO FORM A COMPANY IN AUSTRALIA



PayBitoPro

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Getting your business registered doesn't have to be complicated. Follow these simple steps to get your business off the ground quickly:

1. Choose Your Company Type

- **Sole Proprietorship:**

In a sole proprietorship, the owner assumes complete responsibility for all business activities and bears unlimited liability. Essentially, the owner is solely accountable for all debts and losses incurred by the business. Establishing a sole proprietorship is straightforward and cost-effective. As the sole trader, the owner holds full control and management over the entire business. Dissolving a sole proprietorship is uncomplicated and operates on a low-cost structure. Tax returns are filed using a Tax File Number (TFN).

- **Limited Liability Company (LLC):**

LLCs feature a somewhat complex business structure. These companies possess a distinct legal entity and enjoy the same rights as conventional entities. They can be sued in their own name. Directors and shareholders are shielded from personal liability for any company obligations. Company registration in Australia is conducted through the Australian Securities and Investments Commission (ASIC). Directors oversee business operations, while shareholders own the company. The company files tax returns annually with the Australian Taxation Office (ATO).

- **Partnership in Australia:**

Partnerships involve two or more individuals collaborating to operate a business. The maximum number of partners in a partnership is 20. Partnerships come in two forms: general and limited. Establishing a partnership is straightforward and cost-effective, requiring a separate Tax File Number. Partnerships do not possess a separate legal entity; therefore, all partners are personally liable for business debts. Each partner requires an individual Tax File Number, and the partnership files tax returns annually with the Australian Taxation Office (ATO). Registration for GST is mandatory if a partnership's turnover exceeds \$75,000.

- **Trust Formation:**

A trust is a legal arrangement in which a trustee holds property or assets for the benefit of beneficiaries. The trust deed outlines the function and operation of the trust. The trustee is responsible for administrative tasks on an annual basis and bears liability for trust



operations. A company can easily serve as a trustee for a trust, providing some asset protection.

- **PAN, TAN, and Bank Account Application:**

Subsequently, you must apply for PAN and TAN. PAN and TAN are typically received within 7 working days. Following this, you can present the Incorporation certificate, Memorandum of Association (MOA), Articles of Association (AOA), and PAN to a bank to open your bank account.

2. Steps for Registering a Company in Australia

1. Prior to submission, ensure the proposed company name is available for registration.
2. Choose a distinctive company name for registration.
3. Optionally, utilize the Australian Company Number (ACN) as the company name.
4. The ACN is a unique identifier assigned to a company by ASIC upon its incorporation.
5. Upon incorporation, ASIC issues a certificate of incorporation, confirming the company's establishment from the date of issue.
6. For proprietary companies, the name should include 'Proprietary' or the abbreviation 'Pty'.
7. Complete the ASIC Application Form 201 (Application for Registration as an Australian Company) accurately. Submit it to ASIC for the registration of a proprietary (Pvt Ltd) company.
8. Obtain written consent from each director and shareholder agreeing to their roles.
9. At least one director and, if appointed, one secretary must be an Australian citizen.
10. Depending on the nature and location of the business, ensure compliance with various taxation requirements.

3. Requirements for Company Registration in Australia

Registering for GST is imperative if a company's annual turnover exceeds AUD\$75,000, requiring the acquisition of a unique Australian Business Number (ABN). The application can be electronically submitted via the Business Entry Point of ABN, and upon successful submission, an ABN is issued at the end of the session. The ATO typically sends a confirmation email within 28 days of receiving the application.



Failure to obtain an ABN for a company with an annual turnover of AUD\$ 75,000 or more results in GST becoming applicable on all company sales from the required registration date. This applies even if the sale prices of goods or services do not exceed the tax thresholds. Additionally, the company may incur interest and penalties for any overdue payments to the tax department.

For companies with an annual income below AUD\$2 million in a financial year, a Corporate Tax rate of 27.5% applies.

4. Cryptocurrency Licensing in Australia

Australia stands out as a frontrunner in cryptocurrency regulation, offering a well-defined legal structure for entities involved in digital assets. The country's approach to cryptocurrency licensing prioritizes consumer protection, financial system stability, and the mitigation of money laundering and terrorist financing risks. In this article, we delve into the crucial facets of acquiring a cryptocurrency license in Australia, essential knowledge for entrepreneurs eyeing entry into the Australian digital asset market.

- **Understanding Regulatory Requirements**

Before initiating the licensing procedure, it's vital to meticulously grasp the regulatory prerequisites outlined by the Australian Financial Services and Markets Authority (ASIC) and other pertinent regulatory bodies. In Australia, cryptocurrency-related operations may fall under financial services, anti-money laundering and counter-terrorist financing (AML/CTF) laws, along with various other regulations.

- **Registration as a Digital Currency Exchange Service Provider**

A pivotal initial step entails registering with the Australian Financial Transaction Tracking and Analysis Reporting Commission (AUSTRAC) as a digital currency exchange service provider. This mandate applies to entities engaging in cryptocurrency transactions, encompassing the exchange between cryptocurrencies and fiat money, as well as inter-cryptocurrency exchanges.

- **Preparation for Licensing**

To secure a license successfully, a company must demonstrate adherence to several criteria, including but not limited to:

1. Implementing robust systems and processes for managing AML/CTF risks.
2. Ensuring the availability of qualified management personnel with unblemished business reputations.



3. Maintaining an adequate level of financial resources to sustain business operations effectively.
4. Establishing protocols to safeguard client assets.

- **Submission of Application and Documentation**

Following the preparation of the company for regulatory compliance, the subsequent step involves submitting an application to AUSTRAC and, if necessary, ASIC. The application should encompass all requisite documents evidencing the company's compliance.

- **Application Process**

Upon receipt of an application, regulators undertake a comprehensive review of the provided information and documents. This evaluation may entail additional requests for information, engagements with company representatives, and potentially on-site inspections. The duration for reviewing an application may vary depending on its complexity and the prevailing regulatory workload.

- **License Acquisition and Post-License Period**

Upon a successful application, the company obtains a license to conduct cryptocurrency activities. However, acquiring a license does not signify the cessation of regulatory oversight. The company must continue to adhere to all regulatory obligations, including filing regular reports and upholding AML/CTF regulations.

Acquiring a cryptocurrency license in Australia demands meticulous preparation and unwavering adherence to regulatory stipulations. This process represents a pivotal milestone for companies aiming to operate within the legal framework and safeguard their clientele. Notably, success in obtaining a license hinges on thorough preparation and a company's ability to demonstrate compliance with stringent regulatory standards and risk management practices.

