

房地产行业： 澳大利亚税务问答

与地产业相关的澳大利亚税项有哪些？	<ul style="list-style-type: none"> » 所得税 税率：30%，税基为应税收入减去所允许的税前抵扣。 » 向非居民跨境汇款的预提税 已付税股息：0% 未付税股息：最高税率30% (根据中澳避免双重征税协定，为15%) 利息：10% 特许权使用费：10% » 管理投资信托 对于向外国投资者 (指与澳大利亚存在有效的税务信息交流的国家的居民，例如中国) 所进行的任何分配，凡可归属于在澳大利亚所获得的管理投资信托收入的部分 (例如：租金收入)，只要不属于股息、利息或特许权使用费，均需缴纳7.5%的最终预提税。 » 资本利得税 外国居民在出售其在某一实体所拥有的股份或单位时，通常无需缴纳资本利得税，前提是该实体所拥有的澳大利亚不动产资产没有达到其全部资产的50%或以上。 » 增值税(商品及服务税) 对于非出口的出售交易，征收10%的税款 (但如果属于商业性购买，则所缴纳的商品及服务税可予以索回)。 如果公司的业务包括出售不动产，则某些情况下可以使用“差价制度”(Margin Scheme)进行商品及服务税计算。如果使用该种计算制度，所应支付的商品及服务税的金额为销售价格 (含商品及服务税) 减去购买不动产时所付的价格、或减去经批准的估价报告所提供的该不动产在2000年7月1日的价值，所得的差额的1/11 » 印花税/交易税 印花税是各个州及领地政府所征收的税项，与地产业最为密切相关的征收范围包括土地及权益转让，或对直接或间接拥有土地的公司所进行的股权转让。各个州及领地政府有其不同的税基和税率，但目前的税率均在4.95%至6.75%之间。 » 土地税 土地税是各个州及领地政府每年征收的税项，税基为在每年6月30日或12月31日所拥有的未经开发的土地的价值 (视所在州而定)。各个州及领地政府有其不同的税基和税率，但对于公司实体而言，目前的税率在1.25%至3.7%之间。 » 就业相关税项 工资税：各个州及领地政府对雇主就其支付给雇员的工资所征收的税项，目前的税率在4.90%至6.85%之间。 员工福利税：对雇主在某些特定的支付给雇员的非工资福利之上征收员工福利税，税率为46.5%。
对外国投资者赴澳购买不动产是否有任何限制条件？	<ul style="list-style-type: none"> » 外国居民在澳大利亚 (直接和间接) 购买不动产，通常需要事先获得外商投资评审委员会 (FIRB) 的批准才可进行。
常见的赴澳投资架构是什么？	<ul style="list-style-type: none"> » 投资者通常通过设立全资所有的澳大利亚实体，往往为澳大利亚单元信托，对澳大利亚资产进行收购。外国公司通过设立澳大利亚公司在澳大利亚进行不动产开发的作法也很普遍。 » 如果计划对不动产进行开发，并将其作为投资资产长期持有，则通常会使用证券合订架构 (stapled structure) (即：在某一公司中持有的一股股份，与在某一单位信托或管理投资信托中持有的一个单位，合订作为单一证券进行交易)。通常该公司将进行不动产的开发业务，而该信托则持有该不动产以获得租金收入。
需要考虑的相关融资问题是什么？	<ul style="list-style-type: none"> » 债务额 (包括第三方和关联方债务) 与股权的比例通常最高为3:1，在这种情况下债务利息可用作税前抵扣。实际上，每个公司具体的最高允许负债水平将取决于一些不同因素。 » 认定股息：由一家私营公司直接或间接 (通过一家或多家中间实体) 向某非公司实体的股东或其关联方支付的款项或提供的贷款，可能会被视为未付税股息，而接收人因此需将该款项作为收入缴税。
如何处理所得税抵损？	<ul style="list-style-type: none"> » 如果企业实体可以一直通过“所有权持续性测试”，或可满足严格的“相同业务测试”，则税损可无限期向后结转。
由同一所有者控制的多家实体是否可以组成一个所得税税务合并集团？	<ul style="list-style-type: none"> » 属于澳大利亚集团或外国集团全资所有的多家澳大利亚居民公司，可以选择合并成为一个所得税税务实体进行纳税 (从而能够自动合并所有成员的税损以及在成员实体之间进行资产免税转移)。
在地产方面有什么所得税特殊抵扣？	<ul style="list-style-type: none"> » 折旧资产 (例如厂房和设备、固定装置和设施) 的成本，通常按资产的使用寿命进行折旧抵扣。 » 建筑物的建造、扩建、改建和结构改进等方面的成本，通常按40年进行税前抵扣。 » 在业务运营过程中因终止租赁协议而发生的资本开支，通常按5年进行税前抵扣。
<p>本信息简介仅作为一般摘要提供。澳大利亚税务制度相当复杂，所以在对提案进行评估时或在承诺采取任何行动之前，请务必向专业人员进行咨询。本简介于2011年12月撰写。澳大利亚税务法和税务惯例会经常修改。</p>	

Property sector Australian Tax Q & A

What are the relevant Australian taxes for the property sector?

» Income tax	Rate = 30%. Basis: assessable income less allowable deductions.
» Withholding tax on remittances to non-residents	Dividends franked: 0% Dividends unfranked: maximum rate 30% (15% under China/Australia agreement) Interest: 10% Royalties: 10%
» Managed Investment Trust (MIT)	A 7.5% final withholding tax applies to distributions to foreign investors (who are residents in a country that has effective exchange of information on taxation matters with Australia, eg China) attributable to Australian sourced income of a MIT (eg rental income), to the extent they do not represent dividends, interest or royalties.
» Capital gains tax (CGT)	A foreign resident will generally not be subject to CGT when selling shares or units that it owns in an entity, provided that the entity does not own real property in Australia which comprises 50% or more of its asset base.
» Goods and services tax (GST)	10% charge on non-export sales (but normally claimed back by business purchases). Margin scheme may be used when selling real property as part of a business, where the amount of GST payable is calculated to equal to one-eleventh of the excess of the sale price (including GST) over the amount paid for the acquisition of the property, or the value of the property provided in an approved valuation of the property as at 1 July 2000.
» Stamp duty transfer tax	Stamp duty is a State/Territory tax most relevant to the property sector on the transfer of land and interests or on the transfer of shares in companies directly or indirectly owning land. The basis of the tax and rate varies between States/Territories, but currently ranges between 4.95% and 6.75%.
» Land tax	Land tax is an annual tax levied by a State/Territory based on the unimproved value of land owned as at either 30 June or 31 December of each year (depending on the State/Territory). The basis of the tax and rate varies between States/Territories, but currently ranges between 1.25% and 3.7% for companies.
» Employment taxes	Payroll tax: a State/Territory tax based on salary and wage payments, with the rates currently ranging between 4.90% and 6.85%. Fringe benefits tax: rate 46.5% on specified non-salary/non-wage benefits provided to employees.

Are there restrictions for foreign investors who wish to acquire Australian real estate?

» Acquisitions of real estate in Australia (directly and indirectly) by foreign residents generally require prior foreign investment approval from the Foreign Investment Review Board (FIRB) before the purchase can proceed.

What are common Australian inbound structures?

» Acquisition of Australian assets is usually undertaken via a wholly-owned Australian entity, often an Australian unit trust. Developments in Australia by a foreign company via an Australian company is also common.
» A stapled structure (ie a share in a company and a unit in a unit trust or MIT traded as a single security) is commonly used where the property is intended to be developed and held for long term investment purposes. Broadly, the property development will be conducted by the company, whilst the trust will hold the property for the purpose of deriving rental income.

What are the relevant funding issues that need to be considered?

» Maximum debt funding ratio: a debt to equity funding ratio of 3:1 is generally the maximum gearing level (including third party and related party debt) on which interest costs will be deductible. In practice, a number of factors are relevant in determining the specific maximum allowable debt level.
» Deemed dividend: a payment or a loan made by a private company to a non-company shareholder or associate, either directly or indirectly (through one or more interposed entities), may be treated as though it is an unfranked dividend and therefore assessable income in the hands of the recipient.

How are income tax losses treated?

» Losses can be carried forward indefinitely, subject to the entity continuing to satisfy an ongoing continuity of ownership test or otherwise satisfying a rigid same business test.

Can entities controlled by a common owner form a group for income tax purposes?

» Australian resident companies that are members of a wholly-owned Australian or foreign-owned group can elect to, in effect, be taxed as a single entity (which facilitates automatic grouping of tax losses and the tax-free transfers of assets between member entities etc).

What are the income tax special property deductions?

» Costs of depreciating assets (eg plant and equipment, fixtures and fittings) are generally deductible over the life of the assets.
» Construction costs of buildings, extensions, alterations and structural improvements are usually deductible over 40 years.
» Capital expenditure incurred to terminate a lease in the course of carrying on a business is generally deductible over 5 years.

This is intended as a very general outline, and because of the complexity of Australia's tax regimes it is essential that specific professional advice be obtained when evaluating proposals or before committing to any actions. This outline was prepared in December 2011 and tax law and tax practice in Australia are subject to regular change.