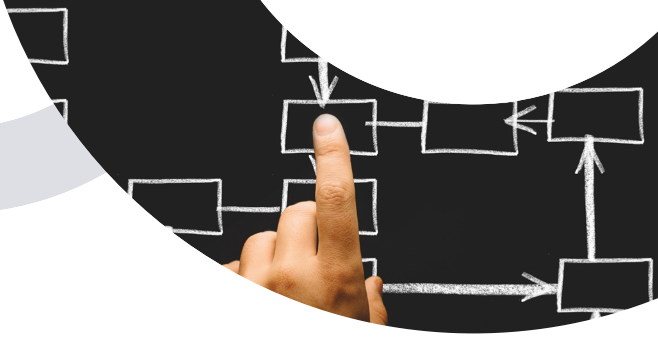
JBC Corporate



Business Structures

The importance of business structures and how they can affect your business.

This information sheet is aimed to provide a brief overview of the different business structures available and the importance of choosing the correct structure for what you are trying to achieve.

It is important to understand the differences in business structures as this will determine:

- The licenses you require;
- How much tax you are required to pay;
- Whether you are considered an employee, or the owner of the business;
- Your potential personal liability;
- How much control you have over the business; and
- Ongoing costs and volume of paperwork for your business.

Sole Trader

A sole trader is the simplest form of business structure, and can be described as an individual operating as a sole person legally responsible for all aspects of the business. As a sole trader, you can also employ people to help you operate your business.

Advantages:	Disadvantages
Simple set up and operate	Unlimited liability which means all personal assets are at risk if things go wrong
Retain complete control of assets and business decisions	Limited opportunity for tax planning – not being able to split business profits or losses with family members and personally liable to pay tax on all the income from the business
Fewer reporting requirements	
Losses incurred by business activities may be offset against other income such as your investment income or wages (subject to certain conditions)	
Allows for the use of individual Tax File Number ("TFN") to lodge tax returns	
Not considered an employee of your own business and therefore do not pay payroll tax, superannuation or workers' compensation on income you draw from the business	
Ability to change business structure if business expands or winding up	

Company

A company is a separate legal entity and can incur debt, sue and be sued. The shareholders of the company can limit their personal liability and are generally not responsible for company debts.

It is a complex business structure and has high set-up and reporting costs. You can form a company as either a private (also known as proprietary) or public entity.

There must be at least one director (and a secretary unless it is a private company). The director is responsible for managing the company's business activities. To register as a company, an entity must be incorporated under the Corporations Act 2001 and be registered with the Australian Securities & Investments Commission ("ASIC").

Advantages:	Disadvantages
Limited liability for shareholders	Significant set-up and maintenance costs
Ability to raise significant capital	Do not retain complete control
Ability to carry forward losses indefinitely to offset against future profits	Complex reporting requirements
Easy to sell and pass on ownership	Cannot distribute losses to its shareholders
Profits can be reinvested in the company or paid to the shareholders as dividends	

Partnership

A partnership involves an association of people (two or more people) or entities operating a business together, with a view to making a profit, but not as a company.

There are two types of partnership – general and limited.

General	Limited
General partnership is where all partners to some extent in the day-to-day management of the business.	Limited partnership is one formed by up to 20 people and has at least one general partner who controls the company's day-to-day operations and is personally liable for business debts, and limited partners. A limited partner contributes a defined amount of capital to the business but is generally not liable for its debts or obligations.

Advantages:	Disadvantages
Simple and inexpensive to set up	A partnership is not a separate legal entity. Each partner is fully responsible for debts and liabilities incurred on behalf of the business by other partners – with or without their knowledge
Minimal reporting requirements	Potential for disputes over profit sharing, administrative control and business direction.
Shared control and management with other partners	Changes of ownership can be difficult and generally requires a new partnership to be established
A partner's share of the business's tax losses may be offset against other personal income, subject to certain conditions	
More opportunities for tax planning (such as income splitting between family members) than that of a sole trader	
Relatively easy to dissolve the partnership or to resign and recover your share	
Partners are not employees – superannuation contributions and workers' compensation insurance are not payable for partners	

Trust

A trust is a structure where a trustee carries out the business on behalf of the trust's members (or beneficiaries). A trust is not a separate legal entity.

A trustee may be an individual or a company. The trustee is legally liable for the debts of the trust and may use its assets to meet those debts. However, if there is a shortfall the trustee is responsible for the difference.

There are two main types of trusts that can be setup via a trust deed: discretionary or unit trusts.

In a discretionary trust, the trustee has discretion in the distribution of funds to each beneficiary. In a unit trust, the interest in the trust is divided into units with their distribution determined by the number of units held by each member.

Advantages:	Disadvantages
Reduced liability especially if corporate trustee	Can be expensive and complex to establish and administer
Asset protection	Difficult to dissolve, dismantle, or make changes once established particularly where children are involved
Flexibility of asset and income distribution	Any profits retained to reinvest into the business will incur penalty tax rates
	Cannot distribute losses, only profits

Should you have any questions or require further information on this subject please don't hesitate to get in touch.

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