



## ***What is the right business structure for my business?***

*One of the key decisions you will make when starting your own small business in Australia, is the business structure. You will need to consider the size, scope and type of business you will be running. Each business structure has an impact on setting up costs, asset protection, tax liabilities and obligations.*

There are four types of structures that you can choose from when starting or expanding your business and each has both advantages and disadvantages.

### **Business Structure**

There are four legal business structures in Australia:

- Sole trader
- Partnership
- Company
- Trust

Each business structure has different reporting obligations that affect the tax required to be paid, business set-up costs and ongoing reporting requirements. Choosing the right business structure is a very important business decision and should be made upon advice from a professional.

### **Sole Traders**

This is the most common business structure and can have as little as one employee, being the business owner who is legally responsible for the business. The sole trader is required to pay tax on the income earned through running the business. If the business earns over \$75,000 per annum, the sole trader will be required to register and collect the goods and services tax (GST) and report monthly, quarterly or yearly on their Business Activity Statement (BAS).

Setting up as a sole trader is simple and easy to maintain. The owner has sole responsibility over the business and will retain the profit. The business structure can be changed easily to suit the growth and legal responsibilities of the business. The sole trader is personally responsible for the legal liabilities of the business, which could put personal assets, such as the house and car at risk. A higher tax marginal rate may need to be paid if the profits increase quickly. The business owner is personally responsible for paying superannuation, workers compensation and other employee entitlements.

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## Partnership

Partnerships are formed between two or more parties who are equal shares in the business. A partnership can hire employees to work in the business. This business structure allows the owners to pool assets and skills to increase the chances of success. Partners pay tax as individuals from the divided business income. A partnership is required to register for and pay the GST when the business earns over \$75,000.

A partnership is easy to set up and maintain. Partnership agreement should be made and signed so that all owners know their rights and obligations. Partners must share control of the business and are personally liable for debts and risks of the business. Disagreement between partners can cause disruption to the business. Additional owners can bring capital, investments and skills to the business. If required, this business structure can be changed easily. Marginal tax rates can be applied to each partner once the business earns over a certain amount.

## Company

A company is formed when a business is registered with the Australian Securities and Investments Commission (ASIC). The business becomes a separate entity to the business owner. The business can own assets and enter into contracts separately to the owner. Companies are subject to pay company tax rates of 27.5% or 30% depending on the criteria, which are different to individual tax rates other business structures are subject to. GST also must be registered and collected if the business earns over \$75,000 annually.

A company offers the owners reduced responsibility for business debts and liabilities as the company is a separate legal entity. Company tax rates are lower than marginal tax rates and more tax effective if the money earned goes above a certain amount. Raising finance for a company is easier than a sole trader or partnership.

A company is owned and controlled by directors and owned by shareholders, and has higher set up costs. There are more legal requirements for paperwork, reports, compliance, ongoing costs and must adhere

to obligations under the Corporations Act 2001. An annual company tax return needs to be lodged on an annual basis with the ATO.

## Business Trust

A trust is a legal business structure that can hold property or income for the benefit of others. The trustee, which can be an individual or a company, is responsible for any debt and liabilities. Trusts are used to manage, protect and pass on family assets which can be in the form of shares, property or a business from one generation to the other. A trustee must own and operate the businesses assets and distribute the beneficiaries income included in the trust deed. The beneficiaries must pay tax on the income received under their marginal tax rates.

A trust reduces the responsibility of business debts and liabilities if the trustee is a company. Trusts do not typically pay tax, provided the profits are distributed to the beneficiaries who pay tax individually. There is a great deal of flexibility distributing profits to the beneficiaries and tax paid is at the lowest marginal rate to minimise the total tax beneficiaries are obligated to pay.

A trust structure is expensive to set up and can be complex to maintain. It incurs a limited life span of 80 years and is difficult to dissolve later once established.

## How to choose a business structure?

Which business structure is best for your business depends on the nature of your business. Some options have benefits on paper, but they may not be the right choice for your business. Understanding the differences between each structure can help you make the right decision.

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Consider the following table when deciding when structure is right for you.

	Sole Trader	Partnership	Company	Trust
Is the structure hard to set up?	No	No	Yes	Yes
Is it expensive to set-up?	No	No	Yes	Yes
Do I have complete control?	Yes	No	No	No
Are there complex reporting requirements?	No	No	Yes	Yes
Are my assets under threat if my business goes into debt?	Yes	Yes	No	No
Do I receive full profits made from the business?	Yes	No	No	No
Can I employ staff?	Yes	Yes	Yes	Yes
Can I change the legal structure easily?	Yes	Yes	No	No
Is it easy to raise capital?	No	Yes	Yes	Yes
Is it easy to dissolve or exit?	Yes	Yes	Yes	No

*ITP Tax Accountants have been helping Australians set up and manage their own small business for 50 years. It's best to seek the advice of a tax professional who can help you decide which business structure would work best for you. Some options look better on paper once costs and tax have been worked out. Speak to a Professional today.*

*ITP The Income Tax Professionals are more than tax agents. They have been helping Australian individuals and businesses with their business accounting and advice for 50 years and offer a wealth of knowledge. Speak to a Professional today and see how your business can be more profitable.*



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