



*Some of the most commonly asked questions about Business Structures are discussed on this page.*

## 1. What types of business structure are there?

There are several forms of business structures, each having its own legal and accounting requirements. The form of organisation of a business determines many things, including how tax is paid and how profits are disbursed, and it should be geared to help you achieve maximum benefits.

The types of possible structures include:

### ***Sole Trader:***

With this structure you intend to conduct your business on your own or with employees but with no joint owner. As a sole trader you are responsible for all debts and may have to mortgage your personal assets when borrowing for your business.

### ***Partnership:***

Up to twenty people may form a business partnership. A larger number is possible for some professions, such as accountants. If no formal partnership agreement exists, partners are deemed by law to be equal owners and the relationship between the partners shall be governed by the Partnership Act. Liability for all debts may fall on any of the partners jointly and severally-if one absconds or dies the others are left with the liabilities.

### ***Limited liability company:***

If you form a company, you will as a shareholder have limited liability, you may become an employee and also a director but with certain liabilities and strict responsibilities set out in the Corporations Law and subject to tax, record keeping, and reporting obligations.

### ***Trusts:***

These may be more appropriate for holding business assets, rather than trading. Trusts usually take the form of either discretionary trusts or unit trusts and will involve the appointment of a trustee to control and operate the trust. The trustee is usually a limited liability company.

## 2. What business structure should I choose?

The major considerations for the choice of the most appropriate structure for a particular business include:

- the simplicity and cost of creating the structure;
- the nature and size of the business;



- the taxation consequences of the structure chosen;
- the liability to third parties consequences of the structure chosen
- the nature and extent of control and management required for the business;
- the cost and complexity of terminating the business and the structure chosen.

### 3. How do I Protect the Trading Names of my Business?

Some of the different registration strategies for name protection are:

#### **Company Names**

It is possible to register a company name with the Australian Securities and Investments Commission (ASIC). Company name registration will prevent another entity registering an identical name either as a business name or a company name throughout Australia.

#### **Business Names**

If your business trades using a name other than that of the person or entity that owns the business, it is necessary to register that other name as a business name. Business names must be registered under the laws of each state or territory where the business is conducted. Registration of a business name is compulsory and must be completed before the business starts trading.

#### **Trade Marks**

A trade mark is used to distinguish the goods and services of one trader from those of other traders. A trade mark can be a word, phrase, letter, number, logo, picture, and even a sound or shape. An Australian registered trade mark gives the owner of the trade mark the exclusive right to use the trade mark in Australia in relation to the classes of goods or services for which it is registered. Trade Marks can be registered in one or more of the classes. The classes consist of different categories of goods and services.

#### **Domain Names**

A domain name identifies a computer to other computers in the Internet. In recent years, domain names have become a standard part of the way in which businesses communicate with customers. If your business operates internationally, you should consider registering domain names in the countries in which you trade otherwise someone else may register it before you do.

***If you would like further information, or require assistance, please contact us on (02) 4731 5899 or send us an email by clicking on the 'Contact Us' page on our website.***