UHY Haines Norton
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Business Basics

BUSINESS STRUCTURES

When starting a business, it is important to choose the right business structure to suit your needs because different business structures provide different benefits. Before you decide, consider how you want to run your business and what you'd like to achieve, including future expansion, investment, regulatory requirements and desired levels of liability.

Sole Traders

A sole trader is a person who goes into business on their own, and this structure is particularly suited to individuals who want to work as contractors. The features of a sole trader business structure include:

- Quick to set up, with no legal or registration fees.
- Can use personal IRD number for the business.
- Sole traders are personally responsible for all taxes and debts, which may put personal assets at risk. All earned income is taxed. Work expenses can be claimed to reduce income tax.
- Losses can be offset against other income.
- Sole traders can operate under a trade name, employ staff and register for GST.
- It may be more challenging to acquire loans or investment.
- It can be difficult to sell a sole trader business.
- Sole traders must complete annual tax returns.

Companies

A company is a legal entity separate from its shareholders. Characteristics of a company include:

- Must apply for a company name and IRD number.
- The shareholders' liability for losses is limited to the value of their shareholding in the company.
- Compliance responsibilities consisting of filing annual financial returns with both the IRD and the Companies Office.
- Company tax rates are lower than top personal tax rates.
- It may be easier to acquire loans or investment.
- It can be easier to sell a company because it is a separate entity.
- It can be easier to grow a company as it is not tied to just one person.

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Partnerships

A partnership is where two or more people or entities join together to run a business, and this business structure has several characteristics, including:

- Partnerships must apply for a new IRD number.
- At the outset, a partnership agreement is created to stipulate how profits, debt and work will be shared amongst the partners. If there is no partnership agreement, the business will be governed by the Partnership Act.
- Partners are personally responsible for debt, which may put personal assets at risk. Partners may also find themselves liable for their partners' business debts.
- Partnerships can operate under a trade name, employ staff and register for GST.
- Capital investment may be easier to acquire from partners.
- Partners can offset losses against other income.
- Partnerships do not pay tax as a business. Instead, income is distributed between the partners who then pay income tax on their share.
- Both the partnership and the partners must complete annual tax returns.

Look-through Companies

Look-through companies (LTCs) are registered companies with the obligations and benefits of ordinary companies. The differences between LTCs and companies include:

- Owners need to elect for their company to be a LTC.
- Profits and losses are "looked through" for income tax, meaning the owners are treated as having received the income and incurred the losses of the company.
- For income tax purposes, assets are considered to be owned by the shareholders.

Trading Trusts

Trusts are most commonly formed to protect assets. A trading trust can be set up to run your business, where your company acts as a trustee.

- Operating trading trusts can be complicated, requiring legal and financial expertise. It is important for all trustees to understand their responsibilities.
- Income is taxed either at the beneficiary marginal tax rate if distributed to beneficiaries, or at 33% if retained in the trust.
- Trading trusts may be suitable for family-owned businesses.