THE RIGHT BUSINESS STRUCTURE

START WITH THE END IN MIND

Ramy Hanna • FIPA • FTIA • FNTAA • Registered Tax Agent
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In Australia there are four main business structures to choose from:

- **Sole Trader**
- **Partnership**
- **Company (Pty Ltd)**
- **Discretionary (Family) Trust**

Each has benefits and pitfalls, and it is important you understand the differences before you commit. The wrong structure at year one can cost tens of thousands by year five — capital gains tax, stamp duty, ABN re-registration, and contracts in the wrong name.

Always speak with your accountant before choosing the structure for your business. We will weigh asset protection, income splitting, family circumstances, future business partners, and the tax position over a multi-year horizon.

The key questions to ask yourself

1. Is this a small side business, or do I have plans to grow?
2. Do I have personal assets I need to protect (the family home, investments)?
3. What is my spouse's income level, and will they be involved in the business?
4. Will I be employing staff?
5. Is the work itself high-risk for being sued (e.g. health, legal, construction)?

Before you start any business, start with the end in mind. The most common reason people go into business is to build an asset that can be sold one day. The structure you pick today directly affects how much of that sale price you keep.

The default for most new businesses has become a Pty Ltd company — and many are set up without ever speaking to an accountant. A company is a great vehicle for many businesses, but one of the most-missed traps is that a company is NOT eligible for the 50% general CGT discount. On a $200,000 business sale that is roughly $30,000 of extra tax. On a $1,000,000 sale, roughly $150,000 — gone, just because of the wrapper.

Companies pay a flat 25% or 30%, which sounds low — but once you withdraw the cash, the shareholder still pays tax at their marginal rate (up to 47%). The right structure should not be picked on tax alone, but tax must absolutely be in the calculation.

The next page compares the four structures side by side. It is a starting point — not a substitute for a 20-minute conversation with us about your specific situation.

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TYPE	TAXATION	POSITIVES	NEGATIVES
Sole Trader or Partnership	Individual rates up to 47% tax	• Low cost to set up • Simple structure • Fewer reporting obligations • Easy to start trading immediately	• Unlimited personal liability — your home and savings are exposed • Joint and several liability for partnerships • Cannot income-split with family • Cannot salary-package • No obligation to pay yourself super
Company (Pty Ltd)	Flat 25% or 30% depending on turnover and activity	• Separate legal entity — protects personal assets • Profits paid as franked dividends (tax credits attached) • Predictable flat tax rate • Perpetual existence — survives owner changes • Easier to bring in investors	• Higher cost to set up and maintain • More complex — ASIC compliance, annual reviews • Not eligible for the 50% CGT discount • Director duties under Corporations Act • Division 7A traps on shareholder loans
Discretionary (Family) Trust	Beneficiaries pay tax at their own rates — flexible year by year	• Strong asset protection (especially with corporate trustee) • Flexible income distribution between family members • Retains the 50% CGT discount on sale • Survives generational change with proper deeds	• Higher cost to set up and maintain • More complex structure and reporting • Cannot distribute losses to beneficiaries • Trust deed must be carefully drafted • Annual trustee resolutions required by 30 June

ABOUT THE AUTHOR

Ramy Hanna has been advising Australian business owners since 2003. Through Trinity Accounting Practice he helps individuals, family businesses, schools, not-for-profits, and SMSF trustees structure their affairs, manage tax, and grow sustainably — with plain-English advice and a focus on long-term outcomes, not short-term wins.

"Our clients succeed when their structure works for them, not against them — that is our job."

Ramy Hanna
FIPA • FTIA • FNTAA
Registered Tax Agent • Certified Xero Advisor
Principal, Trinity Accounting Practice

Trinity Accounting Practice
159 Stoney Creek Road, Beverly Hills NSW 2209
(02) 9543 6804 info@trinitygroup.com.au
www.trinitygroup.com.au

GOOD LUCK!