

What you need to know about your business structure

Whether you are starting a new business or are currently running one, it's good to know some quick facts on choosing between a sole trader versus company so that you can make an informed decision about your business structure. Some key things to consider include set-up steps, costs involved (initial and ongoing), tax calculations, paperwork volume, assessing business income and liability for business debts, staff employment and business control.

Some quick facts under each category for you to consider:

Sole trader	Company
Set-up steps and costs	
<ul style="list-style-type: none"> - Obtain a free Australian Business Number (ABN) - Register your business name for \$36 (1 yr) or \$84 (3 yrs) - Have a separate business bank account (optional - fees may apply) 	<ul style="list-style-type: none"> - Obtain a free Australian Business Number (ABN) - Choose and reserve a company name (from \$49) - Company registration (\$488 for a proprietary company) - Register your business name for \$36 (1 yr) or \$84 (3 yrs) - Have a separate business bank account (compulsory - fees may apply)
Tax calculations	
<ul style="list-style-type: none"> - Taxed as an individual: report income as an individual tax return - Tax-free threshold is \$18,200 (2018-19): the amount of tax you pay will vary depending on factors such as claimable income and deductions 	<ul style="list-style-type: none"> - Taxed as a separate entity: report income in the company tax return. - Company tax rate is currently 30% (and 27.5% if you're a small business with an aggregated turnover less than \$10 million). <p style="font-size: small;">Note: May also need to lodge a fringe benefit tax (FBT) return if you receive fringe benefits.</p>
Paperwork volume and ongoing costs	
Simple business structure with less paperwork and lower ongoing costs.	Paperwork:
<p>Paperwork:</p> <ul style="list-style-type: none"> - Business income and expenses go in individual tax return using a separate business schedule, no need to lodge a separate return for your business - Keep tax records for 5 years (electronic/paper) <p>Ongoing costs:</p> <p>Business name registration (one year \$36 or three years \$84).</p>	<ul style="list-style-type: none"> - Lodge its own tax return in addition to your individual return, and the returns of any associated trusts. - Keep financial records for 7 years - Keep tax records for at least 5 years (electronic/paper) - Subject to annual review by the Australian Securities and Investments Commission (ASIC) - Obligations and legal requirements include: having a registered officer, principal place of business, regular company meetings – including a written record (minutes) of resolutions, notifying ASIC of key changes etc

- Continued existence, even if it has ceased trading, until it is **formally deregistered**

Note: The level of complexity changes depending on what kind of company you're setting up.

Ongoing costs:

- Business name registration (**one year \$36 or three years \$84**).
- Annual review fee (**proprietary company \$263**)
- Potential for other fees by ASIC including late lodgement fees.

Assessing business income

- Money earned is treated as **individual income**.
- Deductions claimable for costs incurred in running business
- Money can be withdrawn from business bank account
- Money earned by the company **belongs to the company**
- A separate business bank account is mandatory
- The company may pay the director wages or directors' fees, but money cannot be simply drawn from the company as 'personal drawings'. Money may be received via shares, dividends or loans.
- Private companies that make tax-free distributions to shareholders or in the form of payments, loans or debts forgiven, have to adhere to Division 7A Income Tax Assessment Act 1936 (Division 7A).

Liability for business debts

- **Sole** traders are personally liable for financial or tax debts.
- No division between business assets or personal assets, (including your share of joint assets e.g. house or car).
- Assets in your name can be **used to pay business debts**.
- Company is generally liable for all business debts, however personal assets can also be at risk if you're a director of a company and the company can't pay its debts (Read ASIC's Guide for Small Business Directors)
- Director is **personally liable for tax debts** including Super Guarantee contributions and Pay-As-You-Go (PAYG) withholding

Note: Check out our What could I be personally liable for as a sole trader vs company information for more detail on your potential liabilities

Employing staff

- **Yes**
- Require workers' compensation insurance
- Understand tax and super obligations
- Understand your employee's entitlements
- **Yes**
- Require workers' compensation insurance
- Understand your tax and super obligations
- Understand employee's entitlements

- Directors have a legal responsibility to ensure the company meets its PAYG withholding and SGC obligations

Full control over the business?

- **Yes**

- **If you are the only director** then the director has full control but certain decisions must still be recorded as resolutions of the company
- **If there is more than one director**, the director will not have full control – the internal management of the company will be governed by all the directors and in line with certain rules, for example, the company's constitution or the 'replaceable rules

Source: <https://www.business.gov.au>