

BUSINESS STRUCTURES EXPLAINED

Discretionary Trusts

Ownership & equity funding

Advantages	Disadvantages
Lack of ownership – benefits risk management	Ownership not clearly defined
	Does not facilitate funding by owners
	Ownership cannot be split

Control

Advantages	Disadvantages
Control can be differentiated from beneficial ownership (enabling structure to be useful for asset protection)	Concept of control can be difficult to understand
Trust deed governs changes in control	Often has a limited life
Control can be exercised by an appointor	
Relatively easy to change control	

Establishment, maintenance & windup of structure

Advantages	Disadvantages
Relatively inexpensive to establish (corporate trustee will make it more expensive)	Life is often limited
Relatively simple to wind up	Can be difficult to understand & this (combined with a corporate trustee) can make maintenance costs relatively expensive

Risk management

Advantages	Disadvantages
Legal & beneficial ownership separated & this allows the structure to be an effective vehicle for asset protection	Trustee can be exposed to high level of risk
Corporate trustee can limit risk of day to day controllers	

Return on investments (to stakeholders)

Advantages	Disadvantages
Non taxable profits can be retained	Undistributed taxable profits are taxed at 45% + medicare levy
High level of flexibility of allocation of profits	Share of income dependant on exercise of discretion by trustee
Tax free capital profits can be easily distributed (without adverse tax consequences)	Investment by shareholders cannot be defined

Tax efficiency

Advantages	Disadvantages
CGT discounts exemptions flow through to beneficiaries	R & D concessions not available
Streaming of income possible	Undistributed taxable income taxed at 45% + medicare levy
Distributions to companies to access 30% tax rate are problematic	Can be difficult to pass test for small businesses CGT relief
Ability to pass on tax credits	Access to franking credits can be limited
Rollover to company available	Trust loss provisions apply
Access to FBT concessional treatments	

Contact us to find out more about Discretionary Trusts and whether it is the right structure for your circumstances.

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