

STARTING A NEW BUSINESS

Business Structures

These are the main types of structures

Sole Trader

A simple structure where the business is owned by a single person and all the income, expense, assets, debt and taxation liability of the business are attributed to that person.

Useful For: Very small business

Company

A company is considered a separate legal "person" and all the income, expenses, assets and debt of the business are owned by the company. The company in turn is owned by shareholders, who receive distributions by way of dividends from the company out of after tax profits.

Useful For: Larger business with non-related owners

Discretionary Trust

The assets of a business are held in trust for the beneficiaries of the trust, although the legal title to the assets is held by the trustee. Income must be distributed each year to the beneficiaries in whatever proportion the trustee sees fit. The beneficiaries are then liable for any tax on that income. Often called a family trust.

Useful For: Most businesses with related owners

Unit Trust

Similar to a Discretionary Trust except that the distributions of income must be made in accordance with the fixed unit holdings of the trust.

Useful For: Business with non-related owners

Partnership

A partnership can be a simple arrangement which allows for a business to be operated between two or more individuals, companies and trusts.

Useful For: Professional Practices

Business Names

A business wanting to trade under a name that is not the legal name of the business owner must register that business name with their state government.

If John Smith wants to trade as Smith Plumbing, he must register that name.

MyBusiness Pty Ltd which trades under the name MyBusiness, does not need to register the name.

The type of legal structure that a business operates through can be influenced by numerous factors. Each structure has advantages and the following table outlines some of these.

Advantages of Business Structures	Sole Trader	Discretionary Company	Partnership Unit	Trust
	Low Establishment Costs	⊙		
Low Running Costs	⊙			⊙
Simplicity	⊙			⊙
Asset Protection		⊙	⊙	⊙
Income Tax Flexibility			⊙	
Access to CGT Discounts	⊙		⊙	⊙
Ownership Flexibility		⊙		⊙
No FBT Exposure	⊙			
Business separate to owner		⊙	⊙	⊙

Please note that this table simply indicates the advantages of the various structures. It does not necessarily mean that a given structure is not able to provide the advantages shown, it may just be more complex and difficult to obtain.

Am I ready for business?

It is quite common for a new business to incur operating losses in the first years of existence and owners need to plan for this.

A well prepared **business plan** can go a long way towards ensuring the long term success and survival of a new business. You should review aspects such as:

- Competition;
- Marketing;
- Strengths & Weaknesses
- How to grow & manage the business

A new business may also require many hours of work which may significantly affect your existing lifestyle.

Important Issues to consider when starting a new business

Setting Up Your Business

Matters to Consider

Australian Taxation Office

Tax File Number & Tax Returns

Sole Traders will use their own existing individual Tax File Number, whilst partnerships, companies and trusts need their own number and will lodge their own separate tax return.

Australian Business Number

All businesses operating in Australia require an Australian Business Number (A.B.N.) The can easily be obtained from the Australian Business Register Website.

The ABN must be displayed on various business documents including tax invoices, letterhead and other public documents.

Goods and Services Tax

A business which has a turnover of \$75,000 or more must register for the Goods & Services Tax (GST) system. Once registered, a business must pay the Australian Taxation Office (ATO) one-eleventh of its' sales (with some exceptions). It can also obtain credits for the GST it pays other businesses, which are known as input tax credits.

Business Activity Statement

A business must lodge a Business Activity Statement (BAS) with the ATO, either quarterly or monthly depending on your turnover (sales).

The BAS advises the ATO of the amount of GST the business has collected from customers and how much it has paid to suppliers for the period. The business must then either pay or be refunded the difference.



Small Business Tax Concession

Some Tax concessions are available to small businesses which have an annual turnover of less than \$2million.

Australian Securities & Investments Commission

Annual Company Statement

When a company is established it is given an Australian Company Number. On an annual basis, it is required to furnish an Annual Company Statement with ASIC. ASIC also requires prompt notification of any changes to company details including addresses and changes to any of the directors' details.

Employing Staff

Matters to Consider

Australian Taxation Office

Employers will need to register for Pay As You Go Withholding (PAYG) with the ATO. PAYG tax withheld from payments to employees is remitted to the ATO on the BAS.

Employers must provide annual PAYG payment summaries to employees in July each year and send an annual statement to the ATO.

All employees must complete a Tax File Number Declaration on commencement of employment.

Superannuation

Employers must pay Superannuation payments on behalf of most employees on at least a quarterly basis.

Most employees will be allowed to choose which Superannuation Fund their entitlements are paid to.

Employee Entitlements & Conditions

Employees are entitled to minimum basic pay rates and conditions such as the provision of Annual Leave, Sick Leave & Long Service Leave under legislation. An employee may be entitled to greater entitlements under an award or agreement.

It may be prudent to provide employees with an employment contract outlining their terms and conditions of employment.

Payroll Tax

If the annual payroll of a business is in excess of the state's Payroll Tax thresholds, the business is required to register for and remit Payroll Tax to the revenue office of the state the business operates in.

Fringe Benefits Tax

If a business provides benefits to its employees in addition to wages and superannuation, it may be required to register for and pay Fringe Benefits Tax to the ATO.

Other Issues

Insurance

All businesses should consider the risks associated with their operations and review their insurance needs. This may include professional indemnity, product liability, premises, equipment and income protection insurance.

Record Keeping & Accounting

At a minimum, all businesses are required to keep records to substantiate their income, expense and GST input credit claims for five years.

Whilst hand written records may suffice for a very small business, accounting software, aimed at small & medium businesses, can be purchased for as little as \$150 to keep track of sales, receipts, payments, debtors and creditors, payroll, GST and much more.

Protecting My Ideas

It may be worthwhile investigating the legal avenues that can be used, such as copywriting, patents and trade marks, to protect valuable ideas, inventions and creations.

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Other Brochures You May Find Of Interest

[Employing Staff](#) [Goods & Services Tax](#) [Small Business Financing](#)
[Business Record Keeping](#) [Fringe Benefits Tax](#)

For further information, please contact:



PO Box 351, North Carlton, Victoria 3054
Telephone: (03) 9348 0313, Facsimile: (03) 8677 2438
Email: enquiries@nexicon.com.au
www.nexicon.com.au