

Tax implications of a company

A company is a relationship where a trustee (an individual or company) carries on business for the benefit of a range of people (the beneficiaries).

The matrix below illustrates the tax implications of a company as at 30 June 2006:

Asset protection benefit	Capital Gains Tax (CGT)	Rate of income tax	Flexibility of distribution of income and capital	Establishment and ongoing costs
Ownership of a business by a company will protect the asset of your business and limit your liability in relation to the business because it is a separate legal entity (and is a separate tax payer) distinct from the people who run the business.	A company is not entitled to the 50% CGT discount available to sole traders, partners and trusts. Furthermore, any capital losses are trapped within the company and can not be distributed to the shareholders of the company to be used to offset any other income earned by them. However, tax losses may be carried forward and offset against the company's income in the next year.	Companies may pay less tax than other business structures such as trusts or partnerships. Profits accumulated within the company are taxed at the 30% company tax rate, which may be lower than the marginal tax rates of the shareholders (currently up to 48.5%). Companies must lodge a tax return separate from its individual members. Income taxed at the company rate of 30% and distributed to shareholders by way of dividends will be subject to "top up" tax at personal tax rates. However, companies can retain after tax profits indefinitely, so that tax payments can be deferred for a taxpayer with a higher personal tax rate.	A company provides less flexibility in relation to the distribution of income amongst its shareholder than trusts or partnerships. Companies usually have to pay all shareholders the same dividend. There will also be stamp duty payable if you wish to sell your shares in the company to enable distribution of the income of the business to someone else, for example, a relative.	It will cost approximately \$1,000 to \$2,000 to incorporate a company. There will be an ongoing cost of compliance with the <i>Corporations Act 2001 (Cwth)</i> requirements.

Further information

The above is only a generic list of the general tax implications of a company. There will be other tax implications and will depend on the specific nature of your business and other aspects of your financial affairs. For more personalised guidance about what structure is the best structure for your business, we recommend that you consult with your legal and taxation advisors.

The Australian Taxation Office www.ato.gov.au has further information related to tax implications for business.

The following fact sheets provide further information on these issues:

- Duties and responsibilities of company directors
- Legal aspects of succession planning
- Set up as a company