

**Coutts Partners Pty Ltd**  
**Certified Practising Accountants**  
**and Tax Agents**

## TAX STRUCTURES COMPARISON

Sole Trader	
<u>Advantages</u>	<u>Disadvantages</u>
1. Inexpensive to establish and run	1. No asset protection for personal assets
2. Easy to understand	2. No income splitting
3. Business losses can be offset against other income, subject to certain tests	3. Cannot refinance working capital to take capital out of the business
4. May be tax implications upon divorce or death	
5. Tax implications if a partner is admitted	
Partnership	
<u>Advantages</u>	<u>Disadvantages</u>
1. Inexpensive to establish and run	1. Partners jointly and severally liable
2. Easy to understand	2. Basically no asset protection
3. Profit distribution between partners can be flexible	3. PSI rules may attribute all income to one
4. Subject to PSI rules below	4. Income assessed at personal tax rates
5. Complex PAYG installment calculations	
Company	
<u>Advantages</u>	<u>Disadvantages</u>
1. Personal assets of shareholders protected, except where suppliers/banks are given personal guarantees	1. Complex to administer, activities & administration are regulated
2. Can employ owners and salary package	2. Losses are trapped in the company
3. Undistributed Profits Taxed at 30%	3. Costly to establish
4. Dividends distributed with tax imputation credits	4. Costly to run
5. Can have different Classes of Shares for distribution to different shareholders.	<b>5. Cannot pass tax-free (CGT discount) amounts to shareholders without liquidating the company.</b>
6. Restrictions apply on "Loans" from the company to directors/shareholders	6. Need to Pay Workers Comp and Super on Directors Wages

### Unit Trust

<u>Advantages</u>	<u>Disadvantages</u>
1. Asset protection	1. Complex trust loss rules
2. Less regulation than a company	2. Losses are trapped in the Trust
3. Trust can employ principals and salary packaging and superannuation	3. Costly to establish
4. No flexibility in Profit Distribution (see PSI below)	4. Costly to run

### Discretionary Trust

<u>Advantages</u>	<u>Disadvantages</u>
1. Ultimate asset protection when corporate trustee. Both trust and principals are protected from each other's creditors	1. Costly to establish
2. Can save on super & workers comp insurance by keeping principal's wages down	2. Losses are trapped in the Trust
3. Flexible Profit Distribution Options, no need to justify wages paid to spouse or children (see PSI below)	3. Stamp Duty implications for changes to beneficiaries
4. Tax free distributions can be made (eg Church tithes made from pre tax income, not after tax has been paid)	4. Land Tax payable at top rate from first dollar.
5. Profits distributed to children with low income can save substantial tax – over 18years no restrictions, under 18 maximum \$2,234	5. Very difficult to satisfy CGT rollover exemptions on retirement due to \$5m assets of all possible relationships

### Definitions

**PSI Personal Services Income** - if 80% or more of business income earned is from one business entity (and associates) and is primarily from one individuals work (and the business has little value in equipment etc), there are restrictions on income splitting. If this applies then it is applicable to partnerships, companies and trusts.

**CGT Capital Gains Tax** – increase in sale price of assets over their purchase price, which in certain circumstances can be discounted to reduce income tax liability.

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Date of document: 12/3/2009

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