

# FACT SHEET

## **Business Structure: Company**

A company is a separate legal entity capable of holding assets in its own name and conducting business in its own right. Shareholders own the company while directors run the company.

To become a company, an entity must:

- Be incorporated under the Corporations Act 2001 (Commonwealth Act); and
- Be registered with the Australian Securities and Investment Commission

Companies may be formed as either private, also known as proprietary, or public companies that are listed on the stock exchange.

### ***Proprietary company***

A proprietary company has no more than 50 non-employee shareholders and is generally not permitted to offer shares or securities to the public. It must have at least one shareholder and one director, and at least one director must ordinarily reside in Australia.

### ***Public company***

A public company may have more than 50 non-employee shareholders, can offer shares and securities to the public, and may seek listing on the Australian Stock Exchange.

## **Advantages of a Company**

- Distinct legal entity
- 30% tax rate gives tax advantage compared to sole trader in high tax bracket
- Tax is paid in company
- Controlled by directors and owned by shareholders. Not necessarily the same people.
- Same GST obligations
- Less liability and recourse for individuals if company is sued than if sole trader. Courts must choose to 'lift the corporate veil' if they want to go after directors personal assets. Generally only happens in the case of fraud or negligence
- Generally companies have greater ability to raise capital through share sales
- Profits can be reinvested or paid out as dividends to shareholders
- Greater ease when it comes to selling or passing to the next generation the business
- Company can carry forward losses indefinitely to offset against future profits
- 

## **Disadvantages of a Company**

- Higher set up and maintenance costs than sole trader
- Less control than in sole trader
- Profits are quarantined in the company until such a point as a dividend is paid to shareholders
- Unable to distribute losses to shareholders
- More complex reporting requirements