Langley | McKimmie
Chartered Accountants

FACT SHEET

Business Structure: Trust

A trust is not a separate legal entity. A trust is a structure where a trustee (an individual or company) carries out the business on behalf of the members (or beneficiaries) of the trust.

Family businesses are often set up as a trust so that each family member can be made a beneficiary without having any involvement in how the business is run.

Discretionary Trusts

The trustee has discretion in the distribution of funds to each beneficiary.

Unit Trusts

The interest in the trust is divided into units, similar to shares. Each unit holder may have a number of units in the trust. Distribution from the trust is determined according to the number of units held.

Advantages of a Trust

- Trust does not pay tax it distributes the profit to its beneficiary (or multiple beneficiaries) if there are multiple beneficiaries then the tax payable can be spread and with successful tax planning result in the optimal tax advantage
- Reduced liability – especially if there is a corporate trustee
- Asset protection – by separating the assets of the business from the running of the business (Eg hold assets in trust but run business through a company) any legal recourse is minimized as the assets are held separately
- Flexibility of income distribution

Disadvantages of a Trust

- Higher set up and maintenance costs than sole trader
- Harder to dissolve or dismantle once established
- Any profits reinvested will be taxed at the highest tax rate. Therefore profits should generally be distributed each year
- Cannot distribute losses