BUSINESS STRUCTURE: COMPANY

A company:

- is a legal association of people that combine for the purpose of operating and financing business operations;
- is created by being registered with ASIC (federal jurisdiction);
- provides for separation of business owners (shareholders) from the business operations (company officers and employees);
- is a legal person with rights to own property, operate a business, and sue and be sued in its own right.

An example: JKL Co. Pty Ltd trading as ABC Bakery

Jane
Director/secretary and Shareholder

Fred
Shareholder

Family Discretionary Trust
Shareholder

PROS

- Finance raising (recognised structure for both debt and equity funding)
- Flexible business expansion prospects
- Written shareholder agreement clarifies exit, governance and dispute processes
- Separate legal personality
- Asset protection by corporate veil (separation of operation and ownership)
- Limited liability afforded to shareholders
- Unlimited life
- Transfer of ownership by share transfer, allowing for flexibility in introducing partners to the business
- Tax benefits afforded to companies

CONS

- Cost of set-up (though basic cost has reduced in recent times for simple company structure establishment)
- Ongoing costs (reporting and accounting) where complicated transactions or structure required
- Loss of control (i.e. to a management board, board of directors, etc)
- Understanding of company concepts, governance and operations
- Layer of regulation by ASIC and Corporations Act 2001 (Cth)
- Limited tax concessions i.e. Capital Gains Tax in relation to real estate/assets
- Director (office holder) obligations and liabilities, including severe personal penalties
- Insolvent trading risks to directors personally

JPAbusiness
Advice • Valuations • Transactions

jpabusiness.com.au