

To incorporate or not???

There comes a point in time when every small business person contemplates whether to incorporate their business into a company or not. Small businesses often start out as sole proprietorships, and then become incorporated as the business expands and develops. Small business incorporating can be a difficult decision, and requires professional advice from your accountant or solicitor, but some of the advantages and disadvantages are as follow.



Limited liability is one of the main advantages. When you have sole proprietorship to the business, all the liability of that business rests on the owner personally. When the business is incorporated into a company structure, your only liability is to however much you invest in the company.

With sole proprietorship, all of your personal belongings, such as car and home, can be turned over to help pay the debt of the business, should it encounter difficulties. Strictly speaking, as a shareholder in the business, you have no legal responsibility whatsoever for the debts of the company. In reality the actual advantage here becomes pretty watered down by the fact that bankers and some trade suppliers often require personal guarantees in support of company debts.

Another advantage to incorporating a small business is the greater flexibility to raise money. Certainly any sole proprietorship can borrow money and incur debt like any company. However, with a corporation you can sell shares and raise equity capital, which is a big advantage in that you generally don't have to repay equity capital and it has no interest. The ability to raise money from investors should increase the capacity of the business to grow and expand.

There are many tax advantages with becoming a company that you can take a look at as well. Some of these advantages include income splitting, potential tax deferral and more.

A company can have an unlimited life as it is not dependent on particular individuals, but the company as a whole. With this, the company has the opportunity of lasting forever.

On the other hand there are some negatives. The first is simply one of cost. Just to set up the company will cost more, then you have to tack on the increased and recurring maintenance and lodgment fees, accounting fees, and so on. Having said that, these costs should be reasonably modest.

There now will be two tax returns to file each year, one for your personal income and one for the company. This may not be a huge deal, but unlike a sole proprietorship a company cannot deduct its losses from the personal income of the owner.

As with everything else, a larger business means more paperwork that must be taken care of. Companies are required by law to keep and maintain various records and registers, and to conduct various meetings. Reports and tax returns must be completed and reported in a timely fashion. All of the business bank accounts and records have to be kept separate from personal accounts and assets.

And just to make life more interesting is to realise that businesses can also be run through other structures such as partnerships and trusts.

What to do? The decision ultimately goes to you. It is an important decision that requires that you do the research and take professional guidance for what is the best possible structure for your own personal and business circumstances.

Cheers

Cam Charlton - Director
KLEINHARDT
BUSINESS CONSULTANTS
cam@kleinhardt.com.au