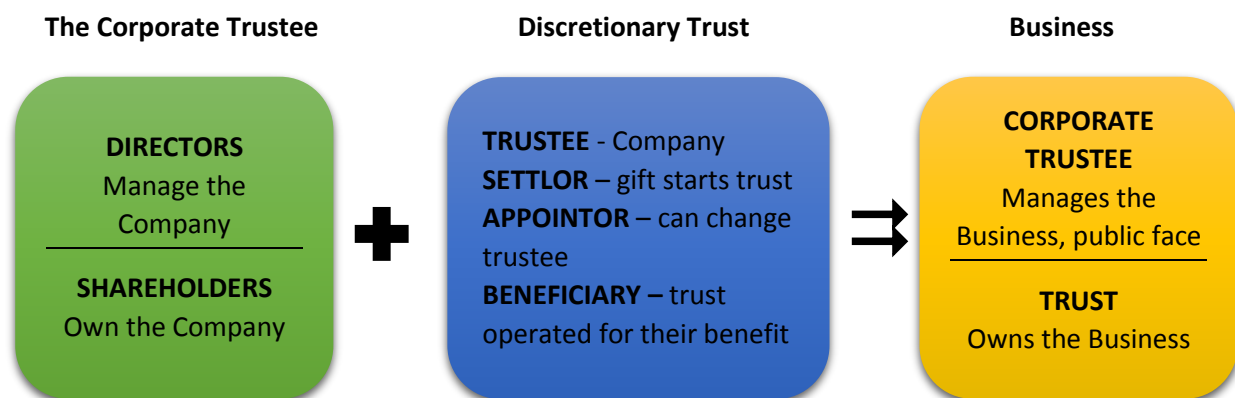


# One Possible Structure for Small Business

[last updated May 2015]

Many factors need to be taken into consideration when establishing a business, including who will be involved and what the business will do. This brochure provides a simple explanation of one common small business structure. This is not the only structure that can be used to operate a business and it may not be the best structure for your business. You **MUST** seek independent accounting and legal advice before setting up a structure like this to ensure that it meets all of your needs.

## Trading Trust with Corporate Trustee



## Steps –

Firstly, it is very important to be clear on your business aims and seek specific advice. If you then want to use a Trading Trust with a Corporate Trustee, then you may choose to follow these steps.

- 1. Company setup** – For a small business, the company will be a proprietary (Pty Ltd) company. This company should only act as trustee of the trust and have no other function. The company holds no assets nor runs any businesses directly. Its sole responsibility is to manage the trust. When the company is registered, a certificate of registration with an ACN (Australian Company Number) will be issued by ASIC (Australian Securities and Investment Commission).
- 2. Trust setup** – You will need a trust deed suitable for the operation your business. There are different types of trusts. The most commonly used for business is either a discretionary trust or unit trust. Although a trust does not need to be registered, in some states the trust deed does need to be assessed for stamp duty, and duty paid on that deed before the trust starts business. If not ‘stamped’ there can be added costs and problems enforcing contracts later.
- 3. Trading name** – Your business can trade in the name of the company, or the trust, or a registered business name that is different from the name of the company or of the trust. To make things easier, you might like to name the company the same as your intended business name. If the company name is the same as your intended business name, there is no need to register a business name separately.

4. **ABN, TFN, GST** etc – Once the trust is established with a corporate trustee, you can apply for an ABN (Australian business number). Every business needs an ABN. This number identifies your business with the tax office. The trust applies for the ABN. The company uses the ABN in conducting the business. You can also register the business for GST, get a tax file number (TFN) for the business and register for any other taxes the business may need to account for, such as PAYG and fringe benefits taxes. When you register for different taxes, you start receiving requests for reports and payment from the tax office.
5. **Bank accounts** – When setting up a bank account with an ordinary bank, take your certificate of registration, trust deed, ABN and TFN with you. It may take a while to get set up, so make an appointment with your bank and set aside a couple of hours. If the person setting up the account is not a director, you may need to take 100 points of identification for the director and a letter of authority as well. Make sure you open the account in the name of the Corporate Trustee.
6. **Paypal** – Paypal does not recognise Australian trust structures. If you have opened your bank account in the name of the Corporate Trustee, then you can open your business PayPal account in the name of the company and will need to provide copies of the signing pages of the trust deed and other information to PayPal.
7. **Website** – Most websites will include a copyright reference at the base of each page. For example “©2014-2015 Onyx Online Law”. This can be done in the name of the company. The company can also be identified as the registered owner of the domain name for your website. The name of the trust does not need to be used. You can also use a business name.

## Further resources and guides:

Australian Tax Office – Choosing the Right Business Structure <https://www.ato.gov.au/Business/Starting-and-running-your-small-business/Starting-your-business/Choosing-your-business-structure/#P129-10252>

Australian Tax Office – Starting and running your small business  
<https://www.ato.gov.au/business/starting-and-running-your-small-business/how-to-get-help/>

Australian Government – [www.business.gov.au](http://www.business.gov.au)

Business Victoria – How to Start a Business  
[http://www.business.vic.gov.au/BUSVIC/STANDARD/PC\\_62512.html](http://www.business.vic.gov.au/BUSVIC/STANDARD/PC_62512.html)

Queensland Government – Business and Industry Portal

<https://www.business.qld.gov.au/business/starting>

Call us to get started –

0423 462 207 or email [advice@onyxonline.com](mailto:advice@onyxonline.com)

