



Wellington Property Investors Association

Accounting Structures

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Introduction

Parts of wealth creation and protection plan:

- Businesses
- Investments
- Property investments


- Employee/ self-employed

What's more important to you?

- Protection of the asset (Trust)
- Income production (rent)
- Tax minimisation

Structure used depends on :

- Purpose – why? (return vs capital growth)
- Circumstances – age, single and no children vs a couple
- Long term plans eg retire early

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- Need to be proactive not reactive
 - One size doesn't fit all
 - But...One size fits many – Trust/ LAQC

Trust

- Why needed?
- Creditors
- Income tested benefits including rest home subsidies
- Relationship property
- Tax minimisation
- Transferring assets to next generation

Options

- Sole trader
- Partnership
- Company
- LAQC
- Trust

Sole Trader

Advantages:

- Easy/ simple
- Can offset losses against other income

Disadvantages:

- No asset protection
- No opportunities for income splitting
- Hard to pass to next generation (depreciation recovery)

Partnership

- Similar to a sole trader
- Some opportunity to split income and losses, usually 50:50

Company

Advantages:

- Income splitting through shareholding
- Some limited liability for **shareholders**

Disadvantages:

- No asset protection
- Losses must be carried forward
- Can't distribute any capital profit without winding up company
- Some liability but unlimited for **directors**

LAQC

- IRD distinction

Advantages:

- Can offset losses against other income
- Can distribute capital gains tax free

Disadvantages:

- No asset protection
- Personal guarantee

Trust

Advantages:

- Asset protection
- Income splitting
- Maximum tax rate 33%, can stream
- Distribute capital profits tax free

Disadvantages:

- Can't offset losses against personal income

- No one entity meets all needs
- May need a combination
- Trust for asset protection and profit making properties
- If using a sole trader or partnership then depreciation recovery incurred
- If using a company can't offset losses
- LAQC for offsetting losses against personal income

- To avoid problem of depreciation recovery on transferring the property to the Trust, don't sell the property...
- Sell the shares in the company to the Trust
- Usually when the property is making a profit
- Put own home in now and start gifting programme

Trusts

- 1-2 settlors
- 2 trustees
- Beneficiaries
- Cost about \$2,000
- Need a solicitor to set up
- Sell property to Trust
- Debt back from Trust
- Gift that debt \$27,000 per year

LAQC

- Company registered with Companies Office
www.companies.govt.nz
- Cost \$160
- Register with IRD as a Loss Attributing Qualifying Company (IR436)
- 5 or less shareholders
- Personal guarantee
- Offset losses against personal income
- Capital profits tax free without winding up company

Tainting

- Development and commercial through trading trust
- Need to keep separate from residential rental activities
- Can use a corporate trustee ie a company as a trustee
- Planned changes to associated persons rules may override eg builders
- Best to concentrate on one activity and let actions prove your intent

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Happy investing!

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