Pharmacy Business Structures

The way you decide to set up your business is a very important decision. Outlined below are some of the various legal business structures, their advantages, disadvantages and principles.

In all cases, pharmacy business structures are governed by the requirements of the State or Territory in which they operate.

SOLE TRADER

As the name suggests, a sole trader is a person who carries on a business individually. A sole trader pays tax at the marginal rates for personal tax until income exceeds a certain figure. See the current Australian Tax Office (ATO) scale.

Advantages	Disadvantages
Simple structure - easy to understand	Total responsibility
Less start-up and continuing costs	Unlimited liability
Control i.e. one decision-maker	Inability to split income
Capital Gains Tax averaging	Rates of tax – refer to your accountant or the ATO
Capital Gains Tax rollover relief available	

TRUST

A trust is a fiduciary relationship binding on a person (the trustee) to deal with property (trust property) for the benefit of persons (beneficiaries). The trustee may be individual(s) or a company.

The trustee does not generally pay tax. Beneficiaries pay tax on their share of any distribution received from a trust.

Under a discretionary trust (i.e. family trust) the trustee has the discretion to distribute both the income and capital of the trust.

Under a fixed trust (i.e. unit trust) the rights of the beneficiaries to the income and capital of the trust are not discretionary.

Advantages	Disadvantages
For a discretionary trust, there is flexibility in the distribution of profit to beneficiaries	May be expensive to establish, depending on the complexity
Limited liability may be achieved through the use of a corporate trustee	A loss cannot be distributed - only offset against future gains
Profits retain their nature when distributed (i.e. capital gains)	Complex loss recoupment rules

COMPANY

The definition of a company includes a body corporate, any other unincorporated association, but specifically excludes partnerships.

This is only available in some states and with limited application. Companies pay tax at a flat rate. Check with your accountant or the ATO.

Advantages	Disadvantages
Limited liability	Loss cannot be distributed - only offset against future gains
30% tax rate maximum	Capital gains lose their identity when paid as a dividend
Ability to retain profits	Private company deemed dividend provisions
Ability to pass on franking credits to shareholders	Establishment and ongoing costs
Now easier to operate with single director/shareholder companies	

PARTNERSHIP

A partnership is an association of people carrying on business in common. Each partner acts as an agent for the other partners and therefore each partner is jointly and severally liable for partnership debts.

Partnerships are governed by the relevant partnership act of each state and territory and the particular partnership deed. A partnership itself does not pay tax. Each partner pays tax on their share of partnership income at the usual rates.

Partnerships are relatively easy to establish; however time should be invested in developing the partnership agreement. In a partnership agreement, the following arrangements, among others, should be spelled out:

- How the business will be financed
- Who will do what work
- What happens if a partner dies
- What happens if one or both partners want to dissolve the partnership

Advantages	Disadvantages
Relatively easy to establish	Profits must be shared with others
Prospective employees may be attracted to the business if given the incentive to become a partner	Business partners are jointly and individually liable for the actions of the other partners
Can be cost-effective as each partner specializes in certain aspects of the business	The partnership may have a limited life; it may end upon the withdrawal or death of a partner.
With more than one owner, the ability to raise funds may be increased	A major disadvantage of a partnership is unlimited liability