Sole Trader

Definition: Where the business is owned and operated by an individual person.

ADVANTAGES

- Easiest and cheapest to set up - no registration and legal fees;*
- Has complete control of business;
- Gets to keep the profits;

**sole traders whose expected turnover is over $60,000 must register for GST with IRD, and PAYE if there are employees*

DISADVANTAGES

- No separate legal status or separation between the business and the person. This means that the person is responsible for all debts and liabilities of the business, therefore their personal assets are potentially at risk;
- Not as widely recognised or trusted as other business structures, making it more difficult for sole traders to receive third party financing from banks or investors;

Partnerships

Definition: Two or more people or entities agree to co-own a business to share profits and liabilities

ADVANTAGES

- Similar to a sole trader structure, partnerships are easy and cheap to set up
- Allows partners to bring their different expertise to the table, share the load, costs and stress of running a business

DISADVANTAGES

- Also similar to a sole trader structure, a partnership is not a separate legal entity. This means that each partner is equally and jointly liable for all of the partnership's debts and liabilities, and each partner's personal assets are at risk

Limited Liability Company

Definition: Separate legal entity than those who own and control the company (shareholders and directors).

ADVANTAGES

- The default rule of limited shareholder liability applies - Shareholders are generally not liable to the company's creditors for the company's debts or obligations
- Because the company owns the assets, a shareholder's personal creditor does not have a direct recourse for the assets of a company
- Shareholder liability against creditors (if any) is limited to the amount of what they paid for their shares
- A limited liability company is generally the most well understood business structure by financial institutions, making it easier for a limited liability company to get investment and funding, and possibly easier to attract customers and suppliers
- Will continue to survive the death of its shareholders (and will continue indefinitely until struck off the Companies Register)

DISADVANTAGES

- Registration fees and costly ongoing fees and formalities (e.g. annual returns, certain shareholder's and director's details must be set out on the Companies Register and regularly updated)
- Directors and shareholders of a company must observe and comply with the Companies Act 1993 ('CA93') (e.g. directors will be personally liable for breaches of directors duties under the CA93)
- Shareholders of the company will also be bound by a company constitution and / or shareholder agreement (if adopted)
- Banks will often seek personal guarantees from directors (who will often also be shareholders) before agreeing to provide finance, so this often circumvents the default rule of limited shareholder liability