

COMPARISON OF FAMILY TRUST vs OTHER STRUCTURES

This chart is intended to provide a quick guide to factors bearing on the selection of trading and investment structures. Each structure is evaluated by reference to the same criteria, in order to allow for a ready comparison.

	Discretionary trust	Company	Individual	Partnership	Unit trust
Exposure to liability	Limited — subject to trust deed	Limited	Unlimited	Unlimited, as well as joint and several	Limited — subject to trust deed
Control over assets	Uncertain	Separated	Absolute	Joint	Collective
Accommodation of general wealth creation	High level of asset protection	Company wealth at risk	Wealth at risk	Wealth at risk	Wealth at risk
Ability to obtain finance	Reasonable	Good	Good	Good	Good
Disclosure of results	None	Disclosure requirements of the Corporations Act	None	None — other than between partners	None — other than between unit holders
Compliance costs	Medium	Medium — high	Low	Low	Medium
Exposure to family disharmony	Moderate	Low	Moderate to high	Moderate to high	Moderate — low
Employee v proprietor	Employee	Employee — Director	Proprietor	Proprietor	Employee
Accommodation to succession planning	High	Moderate	Low	Low	Moderate
Accommodation to estate planning	High	Moderate — high	High	Moderate — low	Moderate
Ability to restructure	High	Moderate	Low	Low	Moderate
Immediate and ultimate rates of tax	Beneficiary rates — marginal or corporate	Initial company rate — top up or refund to personal rates	Personal marginal rates	Personal marginal rates	Beneficiary rates — marginal or corporate
The tax base	Normal — ability to provide benefits to associates without FBT or Div 7A	Normal — benefits to employees and shareholders subject to FBT and Div 7A	Business expenses limited	Business expenses limited — some further financing expenses	Normal — ability to provide benefits to associates without FBT or Div 7A
Access to concessions generally	Moderate	Initially good — but subject to claw-back	Good	Good	Initially good — but subject to claw-back

Access to 50% CGT discount	Yes	No	Yes	Yes	Yes (post 1 July 2001)
Access to small business concessions	Yes — subject to "controlling individual" test	Yes — subject to "controlling individual" test and claw-back	Yes	Yes	Yes — subject to "controlling individual" test and claw-back
Income diversion and accumulation	High opportunity	Low to moderate opportunity	Little opportunity	Moderate opportunity	Moderate opportunity
Incidence of tax losses	Quarantined in trust	Quarantined in company	Personal	Partner level	Quarantined in trust
Ability to carry forward tax losses	Subject to complex carry forward rules	Subject to complex carry forward rules	Unlimited	Unlimited	Subject to complex carry forward rules
Incidence of financing costs	Trust	Company or shareholder	Personal	Partner level	Trust or unitholder
Cash flow considerations	Good — subject to distribution or loan	Poor — subject to distribution or Div 7A commercial loan	Good	Good — subject to agreement	Good — subject to distribution of loan
Private and business expenses	All business	All business	Mixed	Mixed	All business
Effect on social security entitlements	Possible	Direct	Direct	Direct	Direct
Personal exertion rules	Potentially apply	Potentially apply	Do not apply	Do not apply	Potentially apply
Super contributions	Deductible — subject to limits	Deductible — subject to limits	Partially deductible — subject to limits	Partially deductible — subject to limits	Deductible — subject to limits
Possible application of anti-avoidance provisions	Medium — high	Low	Low	Low — medium	Medium