

Sole Traders – Is Your Home At Risk?

Doing business as a sole trader certainly has its advantages. From the relative ease in setting it up, to the avoidance of possible double income taxation, there is no question that if you wish to start small on your own, perhaps the structure of a single proprietorship or of a sole trader may be the right one for you.

If you dream big, however, and foresee the growth of your business, then you may have to consider the advantages of establishing a limited proprietary company instead of being a sole trader. Here's why.

A limited proprietary company is an incorporated entity. Its existence starts upon the issuance of the ACN by the Australian Securities and Investment Commission (or ASIC). As a juridical entity, existing corporation laws consider the limited proprietary company as a business set-up that is distinct and separate from that of the sole shareholder or member.

As such, the liabilities of your company do not become your personal liabilities. Your company's creditors will not necessarily be your own creditors. This is particularly important when your business may one day hit a financial down cycle.

It is normal for businesses to experience rough spots. In the extreme case, a business may become insolvent, which occurs when the financial obligations of a business exceed assets.

If this should happen to you as a sole trader, you can expect a lot of pressure to pay coming from your creditors. As your business's obligations fall due, your creditor will first try to collect from the single proprietorship. If any of your creditors pursue and win a legal action for collection against your business, your creditor will most likely look for properties in your name to satisfy his or her claim against you.

The most obvious ones that your creditor will go after are bank accounts under your name, shares of stock in your name, motor vehicle/s and even the roof over your head. This is because in the eyes of the law, a sole trader/single proprietorship and its owner or proprietor is one and the same person.

As the owner, you assume the financial risks of your business personally and can be made liable for them.

To avoid losing your home or other personal asset, your most logical choice should be to set up a limited proprietary company. All it takes to start a limited proprietary company is one shareholder. You need not take on any business partner if you feel that you can manage your growing business on your own.

With an incorporated company in place, you are now able to take financial risks for the company without fear of exposing your personal assets unnecessarily. Generally, a creditor who decides to run after your company for any unpaid obligation will have to satisfy his or her claim using the assets of your company, nothing more. Your car and your home are protected for as long as you do not execute a personal guarantee for your company's obligations.

While creating a business as a sole trader may be easy, the economic benefits of setting up a limited proprietary company may make the hassle of registration with the Australian Securities and Investment Commission (or ASIC) well worth it.

If you are unsure of the security of your current situation it would be worthwhile speaking with your accountant or solicitor.

Or go here to change your business to a [Pty Ltd company formation](#)