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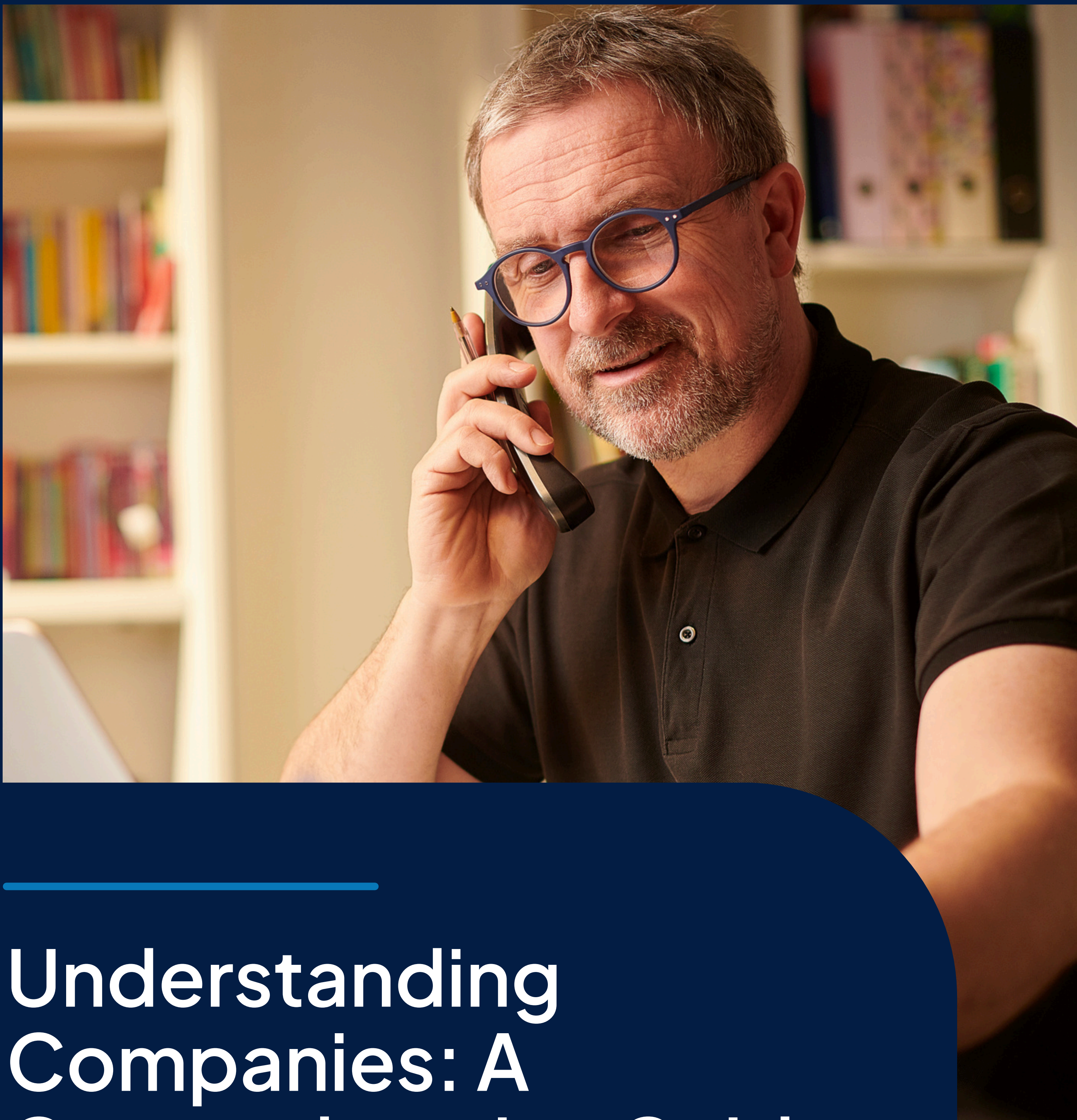

Understanding Companies: A Comprehensive Guide for Business Owners

What is a Company?

A **company** is a separate legal entity, distinct from its owners (the shareholders). It can enter contracts, sue and be sued, own property, and must comply with regulations under Australian law —primarily the **Corporations Act 2001**.To help explain this, think of your minor children under 18yrs of age, they are not a legal person.

Once they turn 18, they are recognised as a legal person and can transact in a legal capacity. Similarly, a company can transact as a legal person.Companies are widely used in Australia for small businesses, growing enterprises, professional practices, and investment vehicles, offering benefits such as limited liability, potential tax advantages, and business credibility.

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KEY ROLES WITHIN A COMPANY

1. Shareholders

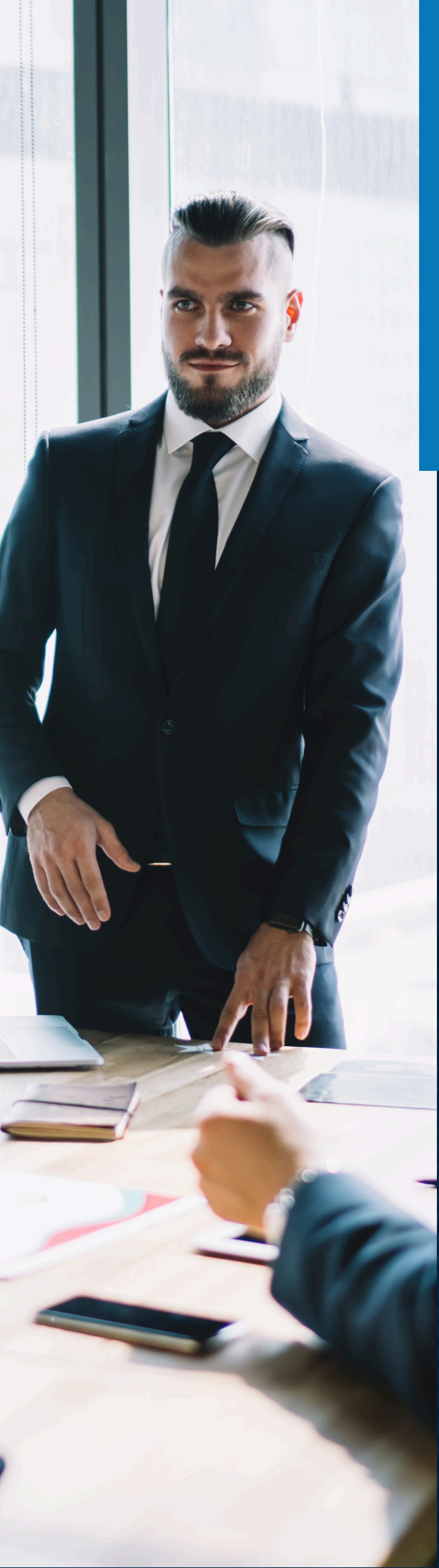
- **Shareholders** own the company through their shares.
- They have rights to dividends (if declared) and to vote on important company decisions, such as appointing or removing directors.
- Their liability is generally limited to any unpaid amount on their shares.
- Shareholders are **not** involved in day-to-day management (unless they are also directors).

2. Directors

- **Directors** manage the company's operations and make strategic decisions.
- They are responsible for ensuring the company meets its legal obligations.
- Directors have **fiduciary duties**: acting in good faith, for a proper purpose, and in the best interests of the company.
- If directors breach these duties, they can be personally liable (even though the company is a separate entity).

3. Registered Office

- Every company must have a **registered office** where official communications and legal notices can be sent.
- The registered office does not have to be the business's trading address but must be accessible and compliant with ASIC requirements.The registered office is often your accountant's office.
- Any change to the registered office must be notified to ASIC within 28 days



ASIC RULES AND DIRECTOR RESPONSIBILITIES

Australian Securities and Investments Commission (ASIC) Oversight

ASIC is the regulator for companies in Australia. Companies must:

- Lodge an **Annual Review** and pay an **Annual Review Fee**.
- Keep company records up to date (including director details, shareholder changes, and address changes).
- Maintain a company register with proper records of meetings, resolutions, and share transactions.
- Notify ASIC of certain changes within prescribed timeframes (often 28 days).

Director Duties Under the Corporations Act

Directors must:

- Act with care and diligence (s.180).
- Act in good faith in the best interests of the company and for a proper purpose (s.181).
- Avoid conflicts of interest (s.182–183).
- Ensure the company doesn't trade while insolvent (s.588G).

Penalties for breach include civil penalties, disqualification from managing companies, and in serious cases, criminal charges.

TAX CONSEQUENCES FOR COMPANIES

Company Tax Rate

- Companies are taxed separately from their owners.
- The **base rate entity** company tax rate is currently **25%** (for companies with aggregated turnover less than $50 million and 80% or less of income is passive).
- Otherwise, the standard company tax rate is **30%**.

Dividend Imputation System

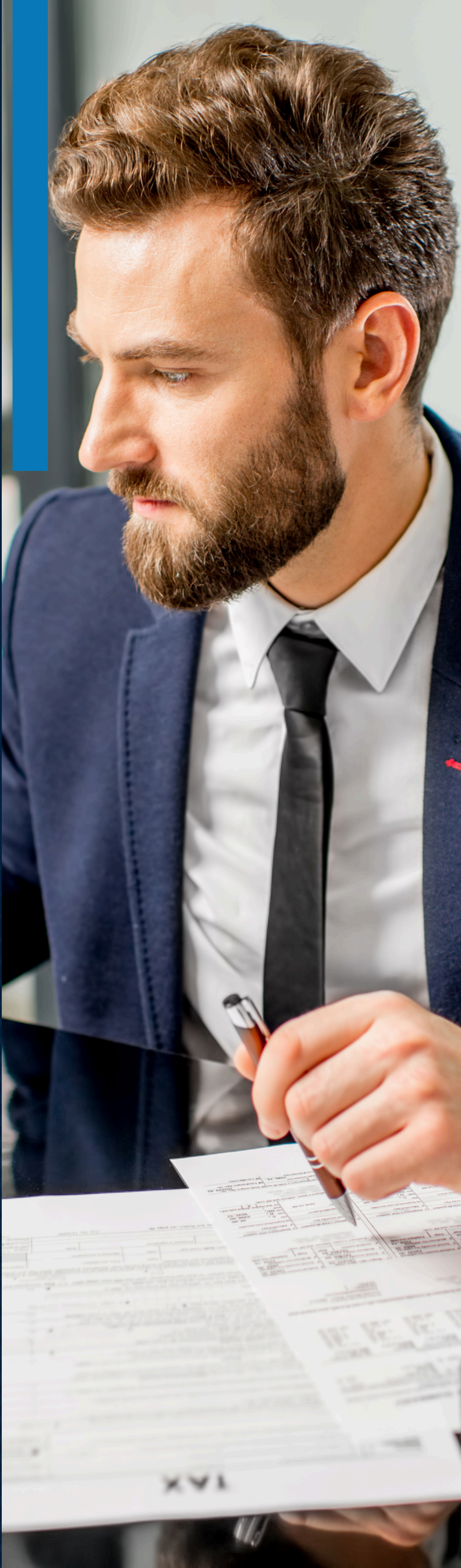
When companies pay profits out to shareholders, they can attach **franking credits** to dividends to reflect the tax the company has already paid. Shareholders can use these franking credits to offset their own tax liabilities.

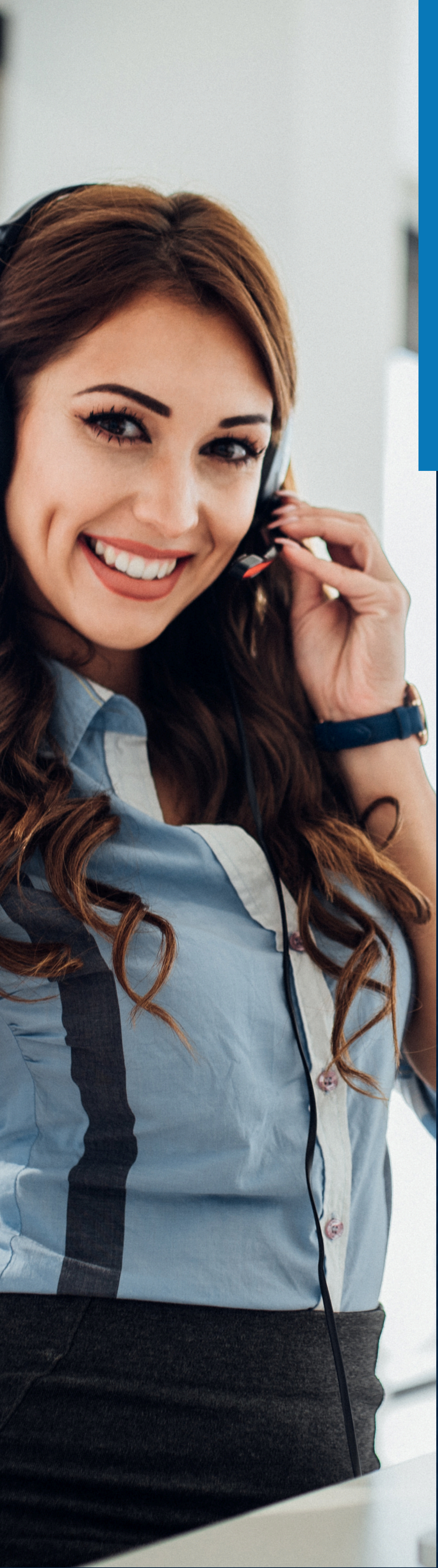
Directors' Loans – Division 7A

Where a company lends money to shareholders or associates without proper documentation or repayment, it can trigger **Division 7A** rules.

- Such loans are treated as **unfranked dividends** and taxed in the shareholder's hands unless managed correctly.

Careful structuring and documentation are essential to avoid unintended tax consequences.





PERSONAL SERVICES INCOME (PSI) AND COMPANIES

Where the company's income is mainly generated **from the personal skills, efforts, or expertise of one individual** (e.g., a sole operator consulting through a company), the **PSI rules** may apply.

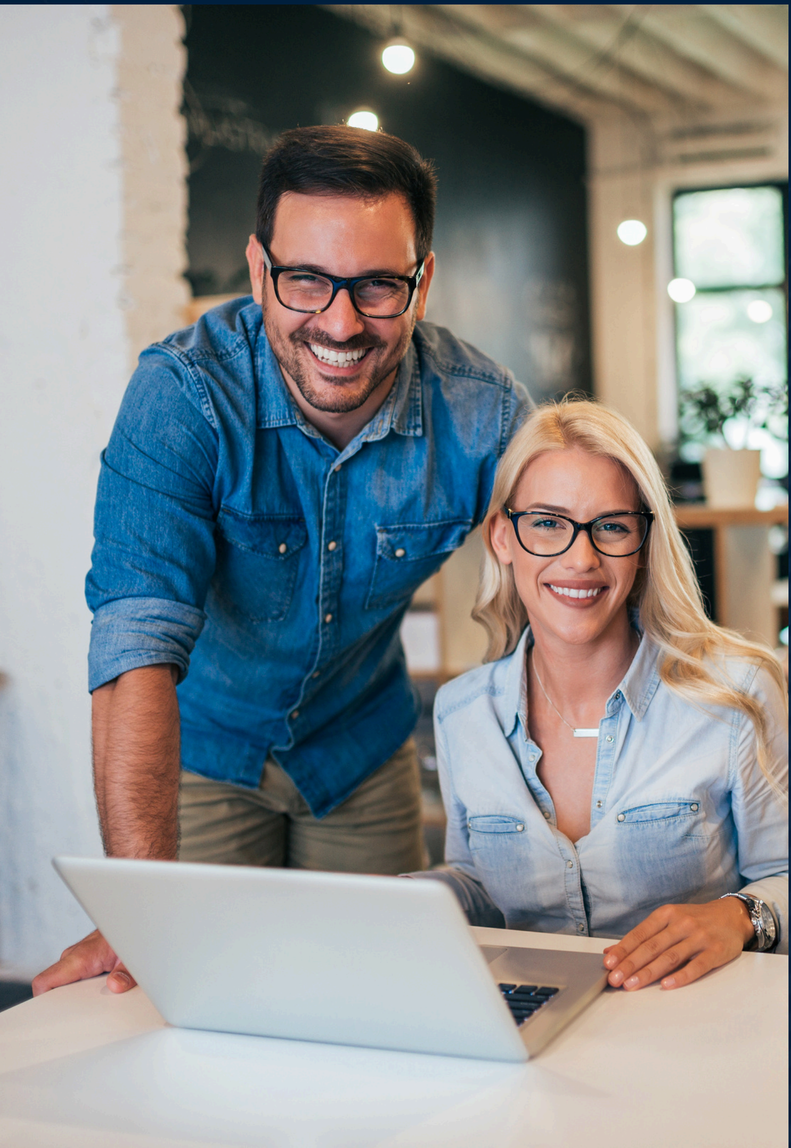
Key points:

- **If PSI applies**, the company may be required to treat the individual as if they were earning the income directly.
- Deductions the company can claim may be limited.
- The principal worker may need to be paid all of the profit of the company.
- Failure to comply with PSI rules can result in additional tax, penalties, and interest charges.

It's crucial to assess PSI exposure annually and maintain appropriate documentation.

WHEN MIGHT A COMPANY NOT BE APPROPRIATE?

- **Simple side businesses** where setup and compliance costs outweigh benefits.
- **High-risk PSI scenarios**, where individual income tax rules still apply despite company structure.
- **Family investment structures** where discretionary trusts might provide better flexibility and tax advantages depending on the situation.



PRACTICAL TIPS FOR COMPANY OWNERS

- **Set up correctly**: Engage a professional to handle incorporation, share structure, and constitution drafting.
- **Keep personal and company finances separate**: Maintain distinct bank accounts and records.
- **Pay superannuation**: Directors and employees must receive superannuation where applicable.
- **Regularly review structure**: As your business grows, ensure the structure remains suitable for asset protection, tax planning, and succession.

FINAL WORDS

Running a company is **not just a set-and-forget**. Directors must be proactive in ensuring compliance with corporate and tax obligations. Good governance, up-to-date financials, and proper advice help minimise risk — and position the company for sustainable success.

If you are considering setting up a company, or want to ensure your existing structure is optimal for your goals, professional advice is essential. Mistakes can be costly — but smart structuring pays dividends for years to come.

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