

## Can A Company Be A Shareholder Of A Pty Ltd?

There are two types of companies that you can form in Australia: a proprietary (private) company and a public company. Of the two, the most popular and most widely used business structure is the proprietary limited company.

Under Australian corporation laws, a company is required to display its legal status along with the company name. A proprietary status is indicated by the abbreviation "Pty". Typically, the shareholders of a proprietary company prefer to limit their liability in the business of the company. The shareholders' limited liability is indicated by the abbreviation "Ltd". So, in a nutshell, when a company name is followed by the abbreviations "Pty Ltd", it means that it is a proprietary company with limited liability.

Only 'legal persons' are allowed to own and hold shares in a proprietary limited company. However, while this implies that only humans who have attained the age of 18 years may be shareholders, in reality a legal entity, like a duly registered company can also be a shareholder of a "Pty Ltd" company. This is because a company is legally defined as a 'person'. The Corporations Act stipulates a company's legal status and independent personality. Under the Act, a company has been conferred the power, not just to sue and be sued, but also to own property which includes shares in another company. An entity becomes a legal person the moment the Australian Securities and Investments Commission (ASIC) issues a certificate of registration and allocates an Australian Company Number (ACN) to it.

It follows then that other business structures that are not registered with the ASIC may not have the legal personality to own shares in a proprietary company. Examples of non qualified forms are unincorporated trusts, joint ventures and unincorporated associations. These arrangements are determined by private agreements and are not regulated by the ASIC.

For other business forms to be able to own a share in a company, they have to become incorporated, and register as a company with the ASIC. For example, in order for, say, the Jones Family Trust to take part in the shareholdings of a company, it must authorise a corporate trustee, e.g. 'Trustee Pty Ltd' to hold the shareholdings on its behalf.

Consequently, ownership of the share of the corporate trustee will appear as "Trustee Pty Ltd in trust for Jones Family Trust."

There are various reasons for a company's decision to hold shares in another company, and a good example is if a company decides to create a separate entity to operate another business line. This move has numerous benefits for both companies.

For instance, if two separate companies form an into agreement about a joint venture, an incorporated entity with both companies holding shares in it may be deemed the appropriate vehicle for such a set up. This is particularly useful in long term arrangements.

The ability to become a shareholder in a company is one of the things that places a legal entity on equal footing with a natural person.