

Do you need information about business solvency issues?

Robson Legal is helping the business community take control of its future during these uncertain times so that their entrepreneurial creativity can thrive.



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The Australian economy is in unprecedented times and large numbers of businesses are facing financial hardship or closure.

There are however ways to protect your business at this time.

What can I check?

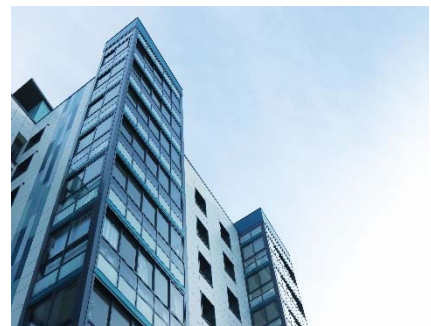
The following is a list of initial issues to consider in relation to your business' solvency:

- Do you have outstanding debtors which owe your business money?
- Is your business involved in any legal proceedings?
- Has your accountant filed all BAS and income tax returns?
- Do you have any business or personal assets which can be sold to pay outstanding debts?
- Have you considered obtaining a loan?
- Have you sought any government assistance?

My business has tax related issues

If your business has tax related issues, you should first confirm whether:

- there are any outstanding BAS or income tax returns for the business;
- the business has a tax debt; and
- you can pay the tax debt over time or defer the payment to a later date.



If the business has any outstanding BAS or income tax returns, the ATO will be unable to offer a formal payment arrangement for any outstanding tax-related debts.

What can I do to reduce the risk of business closure?

To reduce the risk of your business closing, you can consider the following possibilities:

- pay any debts to creditors over a period of time;
- refinance any current loans or negotiate better credit terms;
- take steps to collect unpaid invoices;
- consider the use of invoice factoring for outstanding invoices and payroll funding;
- restructure the business;
- seek government assistance under the JobKeeper Program;
- apply for a government backed loan under the Coronavirus SME Guarantee Scheme; or
- a whole or partial sale of the business.

You need to ensure any steps taken are not unlawful, for example, illegal phoenixing activity. Serious penalties can apply, including gaol.

Bankruptcy and corporate insolvency laws allow certain payments to be "clawed back" for the benefit of creditors.

What can I do if there are business solvency issues?

If your business cannot pay its outstanding debts, you can consider whether any of the following options may assist in your circumstances:

- restructure the business and/or your personal financial affairs;
- sell part or all of the business;
- for companies, appoint an administrator or liquidator to your business and consider a possible Deed of Company Arrangement; and
- for sole traders, consider whether entering bankruptcy with the use of a Personal Insolvency Agreement.

Directors of companies can be personally liable for insolvent trading and for unpaid superannuation and GST amounts.

Is there any government assistance?

Arising from the economic response to Covid-19, your business may be eligible for:

- JobKeeper payments;
- the Cashflow Boost;
- a wage subsidy for apprentices and trainees;
- Unsecured loans which are 50% guaranteed by the Federal Government; and
- payroll tax waivers or deferrals.

Case studies

Business restructure

Mrs D was in a successful business but wasn't sure if the business structure would protect her personal assets and whether a different business structure would reduce tax.

We helped Mrs D by restructuring her business to a more suitable structure. There was no capital gains tax payable as a result and the business was able to reduce its tax payable. The restructure would also protect Mrs D's personal assets.

Significant reduction of interest payable to ATO

Mr M had a significant tax debt which included interest. We prepared an application to the ATO for the Commissioner to reduce the amount of interest payable. Over \$750,000 of interest which had accrued since 2004 was repaid to Mr M by the ATO. Mr M was able to avoid bankruptcy as a result.

About Us

Robson Legal is a specialist law firm for commercial law and tax related matters.



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Robson Legal is recommended by Doyle's Guide as a leading WA tax law firm (2019).

We have many years expertise and experience as tax lawyers in tax litigation and dispute resolution, taxation advice, tax debt relief, tax planning and asset protection strategies.

Contact us by phone or email to make an appointment to meet with one of our expert tax lawyers in West Perth for a free consultation.

We provide tax advice to individuals, small business and large corporate groups.

For a no obligation 30 minute free consultation with a lawyer, call Michael Robson, or Joseph Ho on (08) 9413 0333.

