

POTENTIAL PERSONAL LIABILITY – COMPANY DEBTS

- Non lodgement of BAS** – resulting in Lockdown Director Penalty Notices (DPN) in relation to PAYG, GST, WET and LCT.
- Non lodgement of SGC returns** – resulting in Lockdown DPNs in relation to unpaid superannuation.
- Div 7A loans** – these loans are repayable to the company.
- Personal Guarantees signed** – Is there a personal guarantees register? Check for caveatable interests.
- Building companies** – if Deed of Covenant has been given, establish terms. (Qld only)

STRUCTURAL ISSUES

- Individuals as Trustees of Trusts** – could expose the individual.
- Both spouses acting as directors** – exposes both parties to risk.
- Family home in the name of, or loan payments made by, the director/risk taker** – will expose personal property.
- Inter-entity loans** – exposes group and/or individual assets.

TAX GROUPING

- GST Grouping** – other group entities could be liable.
- Income Tax Grouping** – other group entities could be liable.
- Payroll Tax** – grouping provisions may expose asset holding or investment entities.

ESTATE PLANNING

- Testamentary Trust not established** – inheritance not protected in the event of insolvency.

PPSR

- Unsecured Directors' Credit Loans** – unsecured loans get paid last in order of priority.
- Asset holding entity not registering a PPS lease over a trading entity** – could expose the assets of asset holding entity.

BANKS

- Borrowers referred to the Asset Management/Restructuring Departments** – not being proactive in resolving the situation.
- Lending Covenants** – if these exist, banks may deem non-compliance as event of default.
- Cross Collateralisation** - banks may rely on inter entity guarantees or all monies clauses.
- All lending with one financier** - "all eggs in one basket" if something goes wrong.

