



**ULTIMATE**  
**TAX & ADVISORY**

# Insolvency

## The Warning Signs

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**Each year company directors need to sign a solvency resolution that the company is solvent and able to pay its debts on time. The directors must have a reasonable basis for their opinion and the resolution must be passed by a majority.**

**This occurs around the anniversary of the formation of the company.**

## **What is insolvency?**

Insolvency is when your company is unable to pay its debts. Your company might be in financial difficulty if it has ongoing losses, poor cashflow, unpaid creditors outside usual trading terms and problems obtaining finance.

## **What are the signs?**

There are several signs to look for if you think your company may be close to insolvency including:

- overdue taxes and superannuation liabilities
- rent and other essential services unpaid or delayed
- incomplete financial records
- lack of cash-flow forecasts
- increasing debt
- problems selling stock or collecting outstanding sales invoice payments/debtors
- high turnover of key people
- solicitors' letters, demands, summonses, judgements or warrants issued against your company
- suppliers placing your company on cash-on-delivery terms
- special arrangements with selected creditors (e.g. payments to creditors of rounded sums not reconcilable to specific invoices)
- overdraft limit reached or defaults on loan or interest payments
- change of lender or increased monitoring/involvement by financier
- inability to raise funds from shareholders
- board disputes, director resignations or loss of management personnel
- increased complaints from customers

If you receive a director penalty notice for your company's unpaid and unreported Pay As You Go (PAYG) withholding or Superannuation Guarantee Charge (SGC) amounts, you should immediately seek professional advice. Failure to take any action within 21 days could result in personal liability for the unpaid company tax.

## **What do you do now?**

If you are concerned that your company is showing signs of insolvency, you need to contact us ASAP to discuss your options. A creditor debt restructure, refinance or obtaining equity funding to recapitalise the company may be options.

If these are not possible, then you may need to appoint a registered liquidator to act as a liquidator or as a voluntary administrator.

If you don't believe the company is solvent, do not sign the solvency resolution. You will need to pass a negative solvency resolution and additional ASIC forms will be required to be prepared. Please advise us so we can prepare these on your behalf.

As accountants, we can help you look through your company finances. We also have a network of lawyers, administrators and liquidators we can refer you to if you require assistance beyond our specialties.



# Thank You

## For your Business

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