

JAS PARTNERS

CHARTERED ACCOUNTANTS

BUSINESS ADVISERS – TAXATION PROFESSIONALS – SUPERANNUATION CONSULTANTS

INSOLVENCY NEWS

Extension of Director Penalty Regime

The Director Penalty Regime has been extended following the Tax Laws Amendment (2012 Measures No. 2) Act 2012 receiving Royal Assent on the 29 June 2012.

Directors can now be personally liable for the unpaid superannuation contributions of any company in respect of which they are a director, along with the company's Pay as You Go Withholding (PAYG) tax liability.

If a company's unpaid PAYG or superannuation guarantee amounts are unpaid and unreported three (3) months after the due date, directors can no longer avoid liability by placing the company into administration or liquidation.

If the unpaid PAYG and superannuation guarantee are reported to the Commissioner within three (3) months of the due date, directors will still have the option of avoiding personal liability by placing their company into administration or liquidation within twenty one (21) days from the issue date of a Director Penalty Notice.

Therefore directors should at least ensure their company's PAYG and superannuation guarantee amounts are reported to the Commissioner within three (3) months of the due date, so as to ensure they have the option of avoiding liability by appointing an administrator or liquidator.

If a company had a debt outstanding at the time of Royal Assent i.e. 29 June 2012 and the debt is not yet three (3) months past the due date, the company can report to the Commissioner and the directors will still have the ability to avoid liability by appointing a liquidator or administrator if a Director Penalty Notice is received.

Directors ability to access the three (3) remittance options i.e. pay the debt, appoint an administrator or appoint a liquidator, hinges on the company's liability being reported to the Australian Taxation Office within three (3) months of the due date.

Please contact us if you have any questions in respect of these changes or any other insolvency matter.

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