



SJ BOOKKEEPING



Personal Exposure in a Small Business Restructure

Small Business Restructuring

The Small Business Restructuring (SBR) Process provides financially distressed small businesses with a simplified and cost-effective mechanism for reorganising and recovering from financial difficulties. Simplified debt restructuring has been introduced in order to remedy some of the perceived problems with voluntary administration, particularly for small businesses or SMEs.

Small business owners can benefit from closely monitoring their financial records and key indicators to identify early signs of financial distress. Understanding these warning signs can help in addressing potential debt issues before they escalate.

A skilled bookkeeper can provide valuable insights by recognising financial red flags and, when necessary, recommending the engagement of insolvency and business recovery services. Seeking professional assistance at the right time can lead to strategic recovery plans, debt restructuring, and legal guidance, helping businesses navigate financial challenges and work toward stability.

What if a Director Receives a Director Penalty Notice? (“DPN”)

A director penalty notice, or DPN for short, is one of the preferred tools of the Australian Taxation Office (ATO) when it comes to pursuing directors. However, DPNs often come as a surprise to directors trying to maintain their business in the post-pandemic economy.

The DPN regime makes directors personally liable for a company's tax debts for PAYG, GST, Luxury Car Tax, Wine Equalisation Tax, and superannuation guarantee charge (SGC) debts. This exposure, however, only occurs after the time period set in the DPN has passed.

ATO Lodgement Dates

These dates are from the ATO website and do not account for possible extensions.

You remain responsible for ensuring that the necessary information is with us in time.

See [ATO Due dates by month](#) to check monthly lodgment and payment dates.

BAS/IAS Monthly Lodgements

Final dates for lodgements and payments:

April Activity Statement
21 May 2025

May Activity Statement
21 June 2025

BAS Quarterly Lodgements

Final dates for lodgements and payments:

3rd Quarter 2025 Financial Year:
March Quarter 2025 (incl. PAYGI)
28 April, 2025

4th Quarter 2025 Financial Year:
June Quarter 2025 (incl. PAYGI)
28 July, 2025

When a due date falls on a Saturday, Sunday or Public Holiday*, you can lodge or pay on the next business day.

*A day that is a public holiday for the whole of any state or territory in Australia.

Due date for super guarantee contributions:

3rd Quarter 2025 Financial Year:
January to March 2025 – contributions must be **in the fund** by 28 April, 2025

4th Quarter 2025 Financial Year:
April to June 2025 – contributions must be **in the fund** by 28 July, 2025

Late payments of superannuation are **not** tax deductible. If your business has overdue superannuation guarantee payments and you are unsure of how to proceed, please contact us to discuss.

If there's one clear trend to take away from the past year, it's the ATO's growing willingness to issue DPNs to clients who do not comply with tax regulations. When it comes to DPNs, the risk of personal exposure largely depends on whether your client has received a non-lockdown or lockdown DPN.

If you're unsure of the distinction between these two types, we recommend reading the in-depth article on DPNs for more details. [DPNS - What You Need to Know and Avoiding Personal Liability - Hamilton Murphy](#) for more information.

If a director receives a non-lockdown DPN, it's important to take action quickly so they can avoid personal liability. By starting an SBR within twenty-one (21) days of receiving a DPN, a company director can avoid being held personally liable for the amounts demanded under the DPN. Once the SBR is successfully completed, the ATO must compromise on any remaining portion of the debt following the dividend paid to creditors.

If a director has received a lockdown DPN or a DPN with a lockdown and non-lockdown portion, the Director will be made personally liable for the full amount of any lockdown portion. In this instance, if any SBR or other insolvency appointment is initiated, the ATO may seek to recover either the full quantum of their debt or the balance following a dividend of less than 100 cents/dollar.

What if The Director Has a Personal Guarantee?

Directors commonly provide personal guarantees when financing assets. Financiers also typically register a security over the asset on the Personal Property Securities Register ("PPSR"). Personal guarantees are commonly used in business loans, leases, and trade agreements to provide creditors with additional security.

According to insolvency specialists Hamilton Murphy, as long as these finance agreements are managed in the ordinary course of business, financiers rarely rely on personal guarantees to meet the Company's obligations. Issues generally arise when there are significant arrears on an account prior to the appointment of a restructuring practitioner. In such cases, the financier, as a secured creditor, may utilise their security and the personal guarantee from the director(s) to make up any shortfall arising from a compromise under an SBR.

It's worth noting that during an SBR, there is a moratorium on creditors taking action under a personal guarantee. Once the restructuring period ends, a creditor holding a personal guarantee is free to pursue the director for the full quantum owed by the Company. In such cases, it is important to seek advice and make arrangements for payment with the creditor.

Key Takeaways

SBRs offer a great opportunity for eligible small businesses to compromise onerous legacy debts swiftly and effectively, helping your clients maintain their relationship with you and position themselves for profitable future trading.

Although an SBR cannot completely eliminate personal liability in the event of a lockdown DPN or personal guarantee, there are strategies to mitigate these risks. When prompt action and guidance from an insolvency expert are taken, your business will be afforded the best possible chance to recover its position.

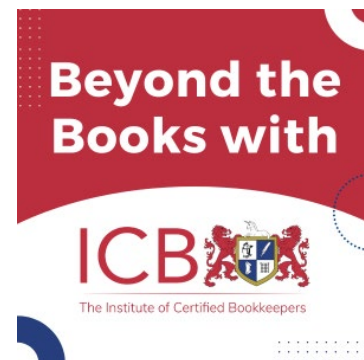
Your bookkeeper is integral to the success of the Small Business Restructuring (SBR) process. They provide essential financial clarity by maintaining accurate and up-to-date records, which are crucial for assessing the business's viability and creating a reliable restructuring plan.

If you'd like to know more about the criteria for your business and how the process works, please visit the [Small Business Restructuring \(SBR\) | Hamilton Murphy](#). Hamilton Murphy is often asked, "Does an SBR protect my client from personal exposure?" Nearly all successful SBRs require creditors to compromise their debts for a return of less than 100 cents/dollar.

For more information, ask your bookkeeper to get in touch with Hamilton Murphy through the dedicated helpline for ICB members by telephoning **1800 122 112** or via email: bookkeepershelp@hamiltonmurphy.com.au

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