



## DO THE SIMPLE THINGS

Don't waste time and money. Do the little things. The easy things.

Many costly issues can be avoided by doing the little things, including:

1. Ensure your company details and addresses on the ASIC register are up to date. Court writs, statutory demands, and various types of notices can all be served on a company by posting them to the address shown on the ASIC register. If the address is an old one, you might miss an important document and it might be too late by the time you realise.
2. Also ensure your address (as company director) is updated on the ASIC register. Some important documents with harsh consequences, such as ATO Director Penalty Notices, can be sent to you by post to your address as shown on the ASIC register. Again, it might be too late by the time you realise a document has been sent to an old address.
3. Get cashflow forecasts done. Speak with your accountant. Every business should have one. Big picture, it allows you to determine the viability of your business and whether you are fighting a losing battle. In the context of disputes or circumstances of strained cash flow, it allows you to determine how much you can afford for settlement of a dispute or an instalment payment arrangement (e.g., with the ATO or other creditors).
4. Make all your lodgements with the ATO on time, even if you can't afford to pay the subject taxes. In particular, ensure you lodge BAS (for PAYG and GST) within 3 months of their due dates, and Superannuation Guarantee Returns within 1 month of the due date for payment of superannuation. If you don't, under the Director Penalty Notice (DPN) regime, you will automatically be *personally* liable (together with your company) for the unpaid PAYG, GST and Superannuation for those periods, with no 21-day "second chance" which only exists when you lodge on time and don't pay.
5. Don't wait until the last day to get advice when something "bad" happens. There can be harsh consequences when a hard deadline is missed. For example:
  - (a) Your company (or you) receive a Court action document (commonly a "Writ"). If you don't respond within the specified time, then the plaintiff can obtain a default



judgment, which is a judgment without any argument, hearing, or trial. The Court presumes that you aren't going to defend the action, and rubber-stamps a judgment for the plaintiff.

- (b) Your company receives a statutory demand. The 21-day period cannot be extended, and failure to comply means there is, at law, a presumption that your company is insolvent. Your company could then be at risk of being wound-up and a liquidator appointed.
- (c) You have lodged your BAS on time, and then receive a Director Penalty Notice for non-payment. There is no scope to extend the 21-day period.

Note: The above is a summary for general information purposes only. It is not intended to be comprehensive or constitute legal advice. You should seek formal legal or other professional advice in relation to your particular circumstances before relying on the content of this article.

For further information or assistance contact Murfett Legal on [+61 8 9388 3100](tel:+61893883100).

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