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Small Business Restructure Fact Sheet

Small Business Restructure Overview

Under the Small Business Restructuring (**SBR**) provisions of the *Corporations Act 2001* (**the Act**), eligible businesses are able to compromise their debts with creditors' agreement through what is known as a Restructuring Plan (**Plan**). The purpose of the SBR regime is to maximise the chances of a Company's business continuing as a going concern.

Getting Started

In order for a business to access for SBR it must:

- be insolvent or likely to become insolvent
- be operated by a company;
- owe less than $1m to its creditors (excluding employees);
- be compliant with the payment of employee entitlement and taxation lodgements.
- both the Company and its Director must not have engaged in the SBR process or undertaken a simplified liquidation in the last 7 years; and
- not be under other restructuring or administration.

For further information on small business restructure contact us: slaventorline.com.au

Appointment of Restructuring Practitioner

If the above criteria are met, the director(s) may resolve to appoint a restructuring practitioner (RP) who will assist the company throughout the restructuring process. A RP is required to be a registered liquidator and must consent to act in writing prior to being appointed.

The company will continue to operate under the control of its director(s) in a 'business as usual fashion' noting that for the duration of the SBR, the company disclose that there is a restructuring practitioner appointed.

Formulation of the Plan

Over a 20 business day period following appointment, the RP will assist the company to develop a Plan and undertakes a review to verify the company's business, property and financial circumstances to determine whether the company can comply with the Plan. Following this process, the RP is required to make a declaration in relation to the Plan and circularise creditors.

Acceptance or Rejection of Plan

Creditors have 15 days from when they are provided with the information about the plan to decide whether to accept it.

The Plan is accepted by creditors if a majority in value accept the Plan.

End of Plan

The Plan comes to an end when either:

- its terms are completed; or
- the company is unable to comply with its terms and it is terminated.

If the terms are successfully completed, the Company is released from the balance of the liabilities which were subject to the Plan. If a Plan is terminated, all debts under the Plan become immediately due and payable and the director(s) will have to make a decision about the future of the company.

Liability limited by a Scheme approved under Professional Standards Legislation