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BROADVIEW
CONSULTING
Chartered Accountants & Business Advisors

Business Tips

Issue 1

Dated 1st February 2008

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Directors liability for Company Tax, GST etc

For some reason over the last three months, I have had a number of questions as to when are the directors liable for the debts incurred by a company.

The general rule is that unless the company is trading while insolvent, the directors will not be personally liable for amounts owing by the company to creditors. This also applies to GST, Income tax, superannuation and other amounts owed to the ATO. However there is one major exception. This relates to tax deducted from employees salaries (PAYG tax). This money is deemed as trust money and while directors are not liable for these amounts, they can become liable.

The ATO can issue a directors penalty notice under section 222 of the tax act for any unpaid PAYG tax. This forces the directors to within 14 days do the following:

1. Pay the outstanding tax

2. Enter into an arrangement to pay it.

3. Place the company into liquidation.

If the tax is paid of course the matter ends. If an arrangement is entered into and this is not adhered to, the directors become immediately liable.

Placing the company into liquidation may be the only option. However a court winding up order takes 30 days to get approved. A creditors voluntary liquidation requires 21 days notice. So the only option is for the directors to place the company into voluntary liquidation. This has advantages that the directors can appoint the liquidator and utilize the administration process to restructure, or enter into a deed of arrangement with the creditors or generally solve the insolvency issues. It comes however with a cost, a cost which is recovered by the liquidator in selling the assets of

the company. This can result in a fire sale of assets at less than the full value. There is also the matter of the liquidators costs, which range from \$20-\$100,000. They are paid first. The answer is not easy, but requires a working through of the alternatives. The main point is to act and don't put your head in the sand. Otherwise more than just your business is at risk.



What presents await you in the mail?

Are you running your business, or is it running you.

The age old joke is why did the chicken cross the road. For business people this is why are you in business. Is it to earn more money, give you financial freedom, give you the time to do as you please.

Take a moment to think, do you have any of these things. Do you have freedom, money and time.

If any of these things are lack-

ing then you are no doubt not achieving your purpose.

A business is meant to create life, not suck it from you. How many business owners work 80 or more hours per week, earn less than their employees and are so consumed that their life is their business.

If this is you, then if not for your sake but for your family, do something about it.

Before you start on the excuses of can't get good people, every-one is lazy etc, have a look around you. Many, many businesses are run without the owner killing himself. It can be done. It just takes a different approach to running a business.. Give us a call we can show you how.



Policy, policy, policy

No this is not a printing error, just a stressing of this important fact. The answer to business freedom is policy. This is what all large businesses know, but I am now going to share with you. This is how franchises duplicate their system. Policy. It is the one way it can set the way you want your business to run, according to the methods you know work. You know how you want customers treated, how goods are to be packed, how bills are to be collected. Then write it down, and train your staff on it. Write it down and

develop it over time. If something happens that you don't have a policy for, write one. You then do it once and only once. For example a client returns goods. What is your refund policy. If you don't have one, write one. In time the answer to ever situation will be written down in policy, Your business will be conducted according to what you consider to be the way to operate.

The next step is to ensure your staff know your policies. They must be written and agreed, to ensure there argu-

ments. Do this with every aspect of you business and you will see how this will free you up. Your staff no longer need to ask for your opinion or view. It has already been decided. So to run a successful business you need to set some policies. Even if you are the only person in the business. This will free you up mentally. Eventually you will have staff or contractors working for you. Then you simply give them a copy of your policies and communication on how *WE* do business then becomes very easy.

“Don't be a business statistic - why 95% on businesses fail?”

Managing by Statistics (not guesswork)

How do you monitor your growth towards your goals. Some-how you must put in place a tool, that tool is statistics. You must define what your goals are, and then monitor your progress towards that goal. There is nothing new in this. But how often do we forget this simple point. It is no accident that successful businesses monitor their key indicators weekly. They are plotted against a known target and used to make decisions. If you know that your

weekly overheads are \$10,000 and your average gross margin is say 30% on goods sold, then it doesn't take a genius to work out you need to sell \$30,000 worth of goods per week. Any week below this is non survival. Not hard is it. Can I say here that very few people in business know their average gross margin, and even less know their overheads. They wait until the end of the year for their accountant (not us) to tell them. And often this is 6 months after

the end of the year. No wonder most accountants are not worth feeding. No wonder that 95% of businesses fail in their first 5 years of business. No wonder that many business owners going into business with a dream that ends in a nightmare of losing their house, or worse their parents retirement money. Business doesn't have to be such a hit and miss affair, let us help you get some skills that will help you.



Managing—The Definition of an Executive.

I am often surprised at how busy business owners are yet their business is not very successful. The answer I get is always I am too busy. Let me recount a small story. I had a client who was a printer. He had been a client for 15 years and we became good friends. I tried many times to get him to work on his business rather than in it. The Michael Gerber E Myth strategy. He was always too busy to read self help books, too busy to do some proper cost-

ing. Too busy to do his financial statements on time etc etc. Hence he never knew where he was. Each year he made a loss, and the answer was always the same, lots of excuses, things outside his control etc. The tragedy was he was very good at what he did, produced a quality product on time and had good clients. Eventually he closed the business, (didn't sell it) as it was run down, repairs were costly and it was better not to trade. Is this you?

What is the definition of an executive—someone who gets things done through managing others. This means the manager must invest in himself to get the skills to manage. Then he must clearly have a path that the business is to travel. A path intelligently worked out that answers the question of the purpose of the business. Only then can you call yourself a business owner. Until this you are merely and employee, and not a good one at that.

How much Australians paid in Tax in 2007.

In December each year the ATO issues a report on how it conducted its affairs for the preceding year. This states how much tax was collected from Australian Taxpayers and how much it cost to those taxes. As you know taxes are what sustain our economy. Like it or hate it, we all pay tax to cover the cost among other things of maintaining our government, social security payments and a host of other things. It makes interesting reading just how much is collected and who from.

- Collections increased last year by 6.6% to \$248 billion.
- 83 new tax laws were enacted.

- \$39.6 billion was collected in GST.
- Running the Tax Office cost \$2.6 billion last year.
- 20,870 people are employed.
- \$133.6 billion was collected from individuals.
- \$56.8 billion was collected from Companies.

Don't you wish you could run your business this way. No product or service was provided, and costs ran at 1% of turnover.

Also interesting enough individual tax was the bulk of the revenue, at 53%. You would think it would be

company tax. Remember last year Australia's population was around 25 million, so you do the sums.



Corporations Law—ASIC

The Australian Securities and Investment Commission governs the rules affecting companies. If you trade as a Pty Ltd company you must comply not only with tax laws but with the Corporations Act. On page 1, I covered directors personal liabilities. These stem principally from the Corporations Act 2001. As a director you have certain obligations under this act. This is designed to protect others when they deal with you (as a company).

Let me firstly define what a company is. It is a separate legal entity. Like you, it has life. It can be sued in its own name, can be sued and it can own property. Trading is separate and distinct from its owners who are its shareholders and the people who are charged with running it, the directors. There are strong reasons why in most cases you should operate your business through a company, not the least being tax, superannuation and asset protection.

But this is a topic on its own. A company can be used to own property, act as the trustee of a trust and to generally run a business. It allows a separation between owners and management. Do not confuse trading under a business name. Business names are registered with the Office of Fair Trading and are merely an extension of the owner of the business name. They offer no protection.

“There are many advantages of trading through a company, not to mention tax, superannuation and asset protection”

What is a Trust

Many people have difficulty understanding this concept. A trust is simply a method of holding property or assets in accordance with an agreed set of rules. The simplest trust is created when you open a bank accounts for your children. Parents act as the trustee. The money does not belong to them but to the trust.

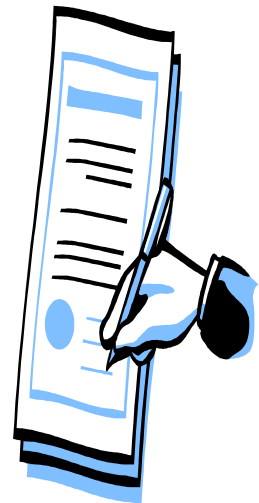
In business trusts are an effective way to operate. They allow the benefits of the personal tax free thresholds, as

well as corporate protection by having a company as the trustee. A company does not need to disclose to the public that it is acting as a trustee in a particular transaction.

The elements of a trust are the trustee who enters into contracts or trades. The trust deed which governs what the trust can or cannot do and the beneficiaries who receive distributions from the profits of the trust.

Trusts are governed by common law and statute. There

are also tax laws affecting the taxing of its income, how distributions must be made and how beneficiaries are taxed. But given the extra complexity, generally trading through a trust can have big benefits. It is almost like having your cake and eating it too. Governments have tried to change the laws regarding trusts. However given that over 60% of businesses trade this way, it is almost impossible.



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**LET US SHOW THAT THERE
IS A BETTER WAY TO RUN
YOUR BUSINESS.**

**TAX LODGEMENTS
BEHIND, NO PROBLEM, WE
ARE EXPERTS ON HELPING
YOU GET UP TO DATE.**



Broadview Consulting was established to offer more than just accountancy services to businesses. Our brief is to help our clients be more successful. To be more than just accountants. To help business owners spend more time with their family, enjoy their business and to learn how to win their game of life. How to throw off the feelings of being overworked and frustrated. How to create balance and be in control.

Accountants are uniquely placed to help businesses be successful. They have the trust of their clients, strong ethics and from a financial standpoint they have a good understanding of their client's business.

It is unfortunately a fact that many accountants are too busy meeting compliance deadlines and simply don't

have the time to help their clients in a proactive way. Sadly it is also true that many accountants are simply not good at running their own business.

Established in late 2006 by Allan Mason with a vision to use the platform of an accountancy practice to help business owners achieve their goals. Having at times been caught up in the sausage factory of a busy practice, he was determined this time to work smarter. The key is to look after a smaller base of clients providing better service and being more proactive.

With 29 years as a Chartered Accountant and nearly 15 years in non accounting based businesses (sometimes concurrently), he is uniquely placed to do this. Having sold a large practice in Chatswood to establish an ASX listed public company, he has broad business experience and skills. He knows from experience and education what it takes to run a business. It is not always a bed of roses, but takes dedicated effort, working smarter and hard work. But it can be profitable and is certainly exciting.

Services we offer

Tax and accounting

General tax and compliance work which includes:

1. Advising on and setting up and business structures—companies, discretionary and unit trusts.
2. Tax and accounting advice.
3. Tax planning in both Australia and in overseas jurisdictions.
4. Annual financial statements preparation.
5. Preparation of taxation returns for all types of entities.
6. Preparation and lodgment of BAS returns.
7. Company audits, trust account audits and workers compensation audits (for workcover).
8. Preparation of financial services licenses.
9. Preparation of product ruling applications to the ATO under the Managed Investments Act.

Business Consulting:

This is about helping business owners run a better business. This is a step by step process and involves:

1. Getting a firm handle on where the business is now.
2. Reviewing the pricing, overheads and some basic financial modelling.
3. Working with the business on their goals and ambitions.
4. Providing training and educational tools for both the business owner and their staff.
5. Implementing a strategy of success.
6. Setting policy, management by statistics.
7. Designing an organising board that clearly sets out the staff functions and positions in the organisation.