SIGNS OF INSOLVENCY

Directors should be on the alert for the following warning signs of insolvency, which have been identified by Australian Securities and Investments Commission. The following checklist can help identify if your Company or Client's are in need of advice should the Company tick any THREE or four concerns.

- Ongoing losses
- Poor cash flow
- Overdue taxes and superannuation liabilities
- Solicitors' letters, demands, summonses, judgements or warrants issued against your Company
- Incomplete financial records or disorganised internal accounting procedures
- Lack of cash-flow forecasts and other budgets
- Increasing debt (liabilities greater than assets)
- Problems selling stock or collecting debts
- Creditors unpaid outside usual terms
- Suppliers placing your company on cash-on-delivery (COD) terms
- Special arrangements with selected creditors
- Payments to creditors of rounded sums that are not reconcilable to specific invoices
- Overdraft limit reached or defaults on loan or interest payments
- Problems obtaining finance
- Change of bank, lender or increased monitoring/involvement by financier

In addition, if a director receives a s222AOE penalty notice from the ATO, (also known as a Director Penalty Notice) for their company's unpaid tax, the director should immediately seek professional advice. Failure to take appropriate steps within 21 days may result in the Commissioner of Taxation taking recovery action against the director personally. If a company has a tax debt then it is just that – however, if some of that debt is for staff PAYG deductions or Superannuation then the ATO can make those amounts the director's personal debt. The ATO makes a director liable by simply sending a Notice by mail – no Court action or Lawyers are required!

The Australian Securities and Investments Commission, recommends that directors consult an appropriately qualified specialist insolvency accountant or lawyer, or a registered liquidator about their company's financial situation as soon as possible if they suspect that the company cannot pay debts when they are due.

In our view, directors should be seeking external advice from a restructuring advisor well before they contemplate the need for the appointment of an external administrator. If handled properly, early intervention by a qualified restructuring advisor may completely avoid the need to appoint an external administrator in future. If you need any guidance or assistance with a corporate restructuring, or insolvency matter, please contact one of the Helm Advisory Specialists on 02 9194 4000.

HELM ADVISORY
Recovery & Insolvency Accountants