Small Business Restructuring

Small businesses now have a cost-effective option to compromise debts and continue trading

Small Business Restructuring (SBR) was introduced in January 2021 to allow a company to restructure its debts while remaining under the control of its directors.

While the initial uptake was slow, the SBR has become more widely used and proven to be a cost effective solution for companies.

Clifton Hall has extensive experience in SBR appointments, carrying out **60% of all SBR appointments in South Australia – with a very high success rate**.

This has seen 16 companies continuing to trade beyond the completion of the SBR, with over 100 jobs saved to date. Many of our SBR appointments have been for companies still carrying debts accrued through COVID.

We were also the first in Australia to undertake a SBR for a corporate group.

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So how does it work?

The eligibility criteria for SBR is as follows:

- the company must have liabilities under $1m (excluding employee entitlements);
- no current or recent director has undertaken a SBR or a simplified liquidation in the past 7 years;
- employee entitlements must be paid in full (this includes superannuation but excludes accruals); and
- all taxation lodgements must be brought up to date to confirm the ATO's debt.

The restructuring phase of the SBR lasts 20 business days, during which the company continues to trade in the ordinary course under the control of its directors.

The directors formulate a plan with the Restructuring Practitioner which is sent to creditors for approval. The plan is essentially an offer to creditors and can include contributions from the directors or third parties, the sale of surplus assets of the company, or even future trading profits.

Any plan proposed cannot be for longer than 3 years, although in most of our SBR appointments the plans have been between 6 and 18 months.

The Restructuring Practitioner sends a report to creditors to outline the details of the plan and other information to consider when the creditor casts their vote.

The plan needs to be approved by more than 50% of the value of eligible creditors, which doesn't include related creditors or employees.

If the restructuring plan is accepted and completed, the company is released from all admissible debts, including taxation debts.

The SBR provides the opportunity for companies to avoid liquidation and compromise claims. By avoiding liquidation it can also protect occupational licences held by directors, such as real estate, security, building and other trades.

Importantly, the Australian Taxation Office is actively involved in the SBR process and will consider compromising taxation debts for eligible plans that meet certain criteria.

So if your client has a business worth saving but is carrying too much debt, perhaps a Small Business Restructuring can help.

As always, there's no cost or obligation in meeting or discussing your client's circumstances with us.

For more information, or a brochure on the process to discuss with clients, please contact any of Daniel Lopresti, Simon Miller or Anna Agostino on 08 7202 1800.

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