



SMITH HANCOCK

INSOLVENCY NEWSLETTER

August 2007

A Large Chunk of Unpaid Taxes owed by Small Business

The Australian Taxation Office ("ATO") is improving its debt collection efficiency.

The Australian National Audit Office ("ANAO") recently released the outcome of its audit into the ATO administration of debt collection – micro-business. The object of the audit was to assess the effectiveness of the ATO's administration of debt collection. Micro-business debt was a particular focus of attention.

The ATO defines micro-businesses as those businesses with an annual turnover of less than \$2 million.

The ATO classifies "collectable debt" as debt which is due and is not impeded as a result of dispute or the entity being insolvent.

The ANAO's report is comprehensive. Some interesting points that we have extracted from the report are summarised as follows:

- As at 30 June 2006, total taxation debt was approximately \$18.78 billion, of which over half, approximately \$10.23 billion is debt that the ATO classifies as collectable.
- Micro-businesses account for two-thirds of the value of all collectable debt. As at 30 June 2006 micro-businesses collectable debt totalled \$6.8 billion.
- Collectable debt as a percentage of revenue collections has risen over the course of the last ten (10) years.
- The ATO ranks well compared to overseas tax jurisdictions in terms of collectable debt as a proportion of total collections, ranking fourth out of the fifteen countries providing responses on this matter in an OECD survey conducted in 2004.
- The ANAO found that external perceptions of the professionalism and ability of debt collection staff are generally positive and the mix of staff training is appropriate.
- In 2006 the ATO set a measurable target in relation to the movement of collectable debt balances. The

goal was to slow the growth of collectable debt in 2005-06, stop the growth in debt in 2006-07 and then reduce the level of debt. The ATO achieved its goal in 2005-06.

- Whilst the ATO continues to improve its strategies and processes, tax debt, and in particularly small business tax debt, is still a significant financial drain on the community. It distorts business competitiveness when non-complying businesses are competing with businesses meeting their tax obligations.
- The ANAO considers that to reduce the collectable tax debt over the longer term it may be necessary for the ATO to expand its debtor research and analysis and if necessary, to use its findings to provide advice to Government for targeted changes to the administration design of the tax system.

The ATO welcomed the ANAO's review and said the report is supportive of the Tax Office's overall directions and will assist in achieving its aim to reduce debt.

As the Australian Government's principal revenue collection agency, the ATO collected net tax of \$232.6 billion in 2005-06. In the same period, the ATO received an appropriation of \$2.459 billion for departmental outputs and as at 30 June 2006 employed 21,511 staff.

In the May 2007 budget, the Government announced additional funding of \$125.7 million over four (4) years from 2007-08 which will allow the ATO to further improve the administration of its debt collection.

If any of your clients are experiencing difficulty in meeting their tax obligations, please do not hesitate to contact us before the debt becomes unmanageable. The initial consultation would be without cost or obligation to your client.

Director Jailed for Insolvent Trading

On 13 July 2007, the Australian Securities and Investments Commission ("ASIC") announced that a Gold Coast boat builder was sentenced in the Southport Queensland District Court to twelve (12)

months imprisonment to be released immediately upon entering a five (5) year good behaviour bond. The boat builder was also ordered to complete 200 hours community service within twelve (12) months, not reoffend within two (2) years and make restitution of \$17,534.60. Following an investigation by ASIC, the boat builder was sentenced after pleading guilty to five (5) charges of insolvent trading between 30 June 2003 and 10 August 2003.

ASIC alleged that despite being aware that his company was placed in liquidation, the director continued to operate in the name of the company and dishonestly allowed the company to incur debts by obtaining goods and services from suppliers at a time he knew that the company would be unable to pay those debts.

ASIC Prosecutions

According to statistics released by ASIC on 4 July 2007, 124 company officers around Australia were prosecuted over the last three (3) months in respect of summary offences following complaints filed with ASIC.

The latest prosecutions have been part of a record level of activity by ASIC. For the year to 30 June 2007, ASIC successfully prosecuted 561 company officers for 1,133 contraventions of the *Corporations Act, 2001*, with fines and costs totalling \$1.09 million imposed on company officers.

Mr Greg Tanza, ASIC's Executive Director of Consumer Protection said that "these results show that ASIC undertakes a range of regulatory functions, and looks at misconduct across the corporate sector". Mr Tanza noted that "companies and directors who fail to comply with basic requirements can cause significant financial harm to creditors and consumers and make it harder for company Liquidator's to recover property for creditors, most of whom are small business owners themselves".

New Manager

The Partners of Smith Hancock are pleased to announce that Mr Wayne Marshall was promoted to the position of Manager on 1 July 2007.

Wayne has been with the firm since 2001 and was admitted to membership of the Institute of Chartered Accountants in Australia on 7 December 2006.

His experience in insolvency matters covers a wide range of industries.

Services Offered by Smith Hancock

Smith Hancock is a specialist Chartered Accounting practice, focusing on corporate reconstruction and insolvency.

In addition to the traditional formal insolvency appointments such as Voluntary Administrations, Receiverships and Liquidations, we undertake cost cutting reviews, business reconstruction advice, investigating accountants reports, partnership/shareholder disputes, plus many other related services.

Please telephone or email us if you have a matter in which you consider we may be able to assist.

Electronic Newsletters

If you would prefer to receive our newsletters by e-mail, please do one of two things:-

- (a) Send an e-mail message to shs@smith Hancock.com.au with the words "Newsletter" in the subject line, and provide your name and firm details in the message;
- (b) Return this page of the newsletter to us by facsimile on 9689 2888 after completing the following details.

Name: _____

Firm: _____

E-mail: _____

On receipt of your reply, we will delete your name from the "hard copy" mail list, and send you future newsletters by e-mail.



SMITH HANCOCK

Level 4, 88 Phillip Street
Parramatta NSW 2150
Telephone 02 8844 8866
Facsimile 02 9689 2888

Email: shs@smith Hancock.com.au
Web: www.smith Hancock.com.au



Liability limited by a Scheme
approved under Professional
Standards Legislation