

ASSET PROTECTION CHECKLIST

Management strategies in relation to incurring debts and liabilities;

There are some procedures that need to be adopted to prevent or reduce the possibility of incurring liabilities that will be enforceable against the individual personally:

Keep a record or logbook of people to whom a personal guarantee has been given to;

- Apply an upper dollar limit to personal guarantees;
- Apply an expiry date to personal guarantees;
- Ensure that Group Tax (PAYG Withholdings) payments are kept up to date by the company;
- Ensure that GST payments are kept up to date by the company;
- Ensure that superannuation guarantee payments are kept up to date by the company;
- Only appoint one director to the company;
- Never allow a company to trade once it has been identified as being insolvent;
- Ensure the company maintains accurate and timely records;
- Delete any clause in a guarantee that allows a supplier to place a charge over any real property (real estate, goods and chattels or choses in action) of the guarantor in case of default;
- Ensure that any directors wage or entitlements are paid up to date (so that the trustee or receiver cannot sequestrate it)
- Ensure any beneficiary entitlement accounts from a trust are paid out (so that the trustee or receiver cannot sequestrate it)
- Do not borrow money from the company;
- Monitor and require release of guarantee and or security given to secured lenders as the level of borrowing reduces;
- Avoid giving a floating charge over the company's assets if possible.

Source: Alan Nicholls Chartered Accountant, registered Liquidator, Registered Trustee in Bankruptcy 2003

Asset Protection Techniques and Strategies

- ❑ Assignment of credit loans;
- ❑ Options over family home and other assets;
- ❑ Binding Financial Agreements (Pre-nuptial agreements);
- ❑ Replace Key Person if trustee;
- ❑ Ensure powers of appointment exercised jointly;
- ❑ Superannuation funds have preferred beneficiary declarations;
- ❑ Review life insurance policy owners;
- ❑ Floating charge over company assets secured by deed of guarantee
- ❑ Deed of covenant secured by mortgage;
- ❑ Contractual Wills;
- ❑ Testamentary Trusts;
- ❑ Capital Reserved Trusts.

Source: Stephen Maher Asset Protection Seminar 2005.