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Does the Corporate Veil still protect Directors?

Directors are starting to see why the ATO introduced Single Touch Payroll. This data has enabled the ATO to identify businesses, who are not complying with their responsibilities for Superannuation Guarantee (SGC) and PAYG withholding tax obligations. With the recent introduction of new legislation, the ATO will be allowed to collect estimates of anticipated GST liabilities and make company directors personally liable for the company's GST liability, in addition to the existing exposure to PAYG and SGC liabilities.

This is potentially a big exposure for company directors and arguably more dangerous than their PAYG and SGC liabilities, as in many instances, companies are more likely to have GST liabilities in arrears than PAYG and SGC debts.

A Director Penalty Notice (DPN) can be issued by the ATO, making a director personally liable for certain debts of the company. This will have implications for all companies, but will have significant impact on a director of a "financially troubled" company.

What about new Directors?

If a company has an outstanding tax liability, the new director can become personally responsible for a penalty equal to that amount, unless within 30 days of their appointment, the company pays its outstanding debt, appoints an administrator, or begins to wind



up the company. Even if the director resigns within the 30 day period, they will remain responsible for the debt due before their appointment. Resigning as a director does not prevent a DPN being issued, irrespective of whether you are a new or existing director.

How will the ATO collect it?

Apart from directly from the director. The ATO has the power to issue a garnishee notice to a third party, which will require them to pay that amount directly to the ATO, where the third party owes money to the director or the company. The ATO can also issue a garnishee notice to the bank where the director has an account.

How can I protect myself?

- Concentrate on your due diligence... check to make sure that all PAYG, SGC and GST liabilities are up to date.
- Ensure that all reporting is completed

on time...if not, a DPN can't be avoided.

- Ensure that your correct details are in the ASIC register...no defence is available for non-receipt of a DPN, if the register is not correct.
- Understand that these exposures exist, even if you are not a validly appointed director, but a defacto director or shadow director.

What other issues do I face?

In many instances, directors have no choice, but to provide personal guarantees to obtain credit from financiers, suppliers or to arrange tenancy leases. These guarantees are often provided over a long period of time and we find many directors have no record of what they have guaranteed. If you are an existing director resigning from the company, you should ensure that you are released from any personal guarantees, which you have provided for the obligations of the company.

Travel Insurance - Changes and Pitfalls

Anyone who is travel savvy buys Travel Insurance when they're venturing on a trip because they know that it can be a life saver.

What could be more reassuring?

Cover for all those unexpected dramas that could cost you thousands, like emergency medical expenses, lost and stolen baggage, flight delays and cancellations. Even legal expenses cover if you need it.

However, every year we see too many incidents of avoidable pitfalls that customers plunge into. Problems that could be completely avoided easily and cheaply. Like what?

We list the top pitfalls that you should look to avoid before it's too late for you. Some simple do's and don'ts for Travel Insurance to know before your next trip.

Regularly take medication for a medical condition?

If you have a pre-existing medical condition, it's essential to check and comply with the rules set by the travel insurer. It may be a longer process or more expensive for you to buy insurance that includes cover for your pre-existing conditions, but always check your options.

Planning some new adventure activities?

Fancy a bungee jump? Diving? Mountain trekking or swimming with dolphins? Every-



one likes to try something new, especially on holidays, but you are more at risk of injury while participating in adventure activities and did you know that you may not be covered by your travel insurance? Most insurance companies have a list of accepted 'adventure activities' so check before you go, as you may be able to pay an additional premium if you are trying something more adventurous.

Bought your Travel Insurance too late?

Don't make the mistake of not buying Travel Insurance as soon as you're booked and paid for your trip. The best time to buy is as soon as you paid the first deposit, or certainly before you travel. You'll be covered for certain unforeseen problems like death or serious illness of anyone on the policy, or a close

relative or business associate, redundancy, etc

Opted for the cheapest policy?

One of the most common pitfalls is people buying cover without checking it sufficiently meets their requirements. Think about the cost of your holiday if you had to cancel, the luggage you are taking in case it's stolen, any connecting flights and pre-paid excursions, so get sufficient cover to avoid disappointment and extra costs if things go wrong.

Not understanding Claims Requirements?

It's worth taking a look at what you might need to make a claim, before you face the stress of actually having to make one. All insurance companies will require evidence of any loss before they pay a claim. This might be a police report from the local Police in the country where the incident occurred. Evidence from the airline carrier, tour operator, hotel or accommodation provider where there is any cancellation of the trip, will also be required.

One of the biggest misconceptions travellers face is that they will be covered for every situation - unfortunately they won't, so know your cover and the claims procedures.

Tis the season for Christmas surprises

We all love a surprise at Christmas time and the excitement of imagining what's under the tree. What we don't want is the surprise and upset of storms and other nasty happenings at this time of year. There are a few simple things you can do to limit the potential of a spoiled Christmas at your place.

Intruder proof it

Remove all those burglar-friendly aids lying about around your yard and garden - a chair gives them a leg up, the ladder easy access to your highest windows. Put away those tools - the edge of a spade makes an effective jimmy.

Intruder protection basics like installing deadlocks and window locks on all external doors and windows were done at your place years ago, right? How about these tried and

tested burglar deterrents:

- Installation of motion sensor lighting - very cost effective.
- Installation of a monitored alarm system - even better.
- Consider the installation of a closed circuit TV camera - gives a good chance of catching the perpetrators and getting your stuff back if you do get burgled, as does...
- Security marking of valuables... and photographs of them kept in a secure place.
- Up-to-date valuations of valuables to determine insurance cover required.

Storm proof it

Christmas in our part of the world means the risk of damage delivered by storms is at its peak. Preparation is everything. Clean out the gutters, trim back your trees and ask your neighbor to do the same. Put away



those potential flying object items sitting in your yard, on your deck or verandah.

Finally, if all your precautions come to nothing and you are hit by weather events or visits from unsavoury individuals, at least your home and contents insurance will put things right financially. If you're not sure you have enough cover, contact your insurance broker account manager without delay.

Cyber Risk Insurance

Cyber insurance first emerged in the late 1990s as a response to Y2K concerns. Since then, there has been an escalation in the reliance on technology, and the cyber risks of doing business have exponentially increased. It is still an emerging area of risk and insurance, and not all policies are created equally. There is also a lack of understanding of some businesses regarding what is covered by cyber insurance.

What Cyber Insurance Covers

There are four main types of cover and while there are additional types of cover available that may respond to your businesses' unique needs. You should discuss your businesses' requirements with your broker to ensure that your cyber insurance policy is tailored to you.

1. Cyber Security

This aspect of cover responds in the event of a network security failure or breach and covers your business costs incurred as a result of a breach including legal expenses, IT forensics, negotiation and payment of ransomware demands, breach notification to consumers, public relations, credit monitoring and identity restoration.

2. Cyber/Privacy Liability

Businesses that store sensitive information belonging to others (suppliers, customers, and even employees) may face liability and/or regulatory exposure in the event of a cyber or privacy breach.

Cyber/Privacy Liability cover extends to insure any damages, fines and penalties, legal expenses or other costs of defending your business against damages claims or regulatory investigation or enforcement.

3. Business Interruption/Operational Cyber Risk

This coverage extends to loss of profits, fixed expenses and extra costs incurred when your businesses' network is down following a cyber security breach or system failure.

4. Errors and Omissions

Errors and Omissions cover extends to claims arising from your businesses' errors in, or omissions to, provide services due to a cyber event. It may cover everything



from liability arising from your breach of contract, to negligence in the event a cyber event results in failures in your services.

Why Insure for Cyber Risk?

Most businesses rely heavily on technology and connectivity as part of their daily operations. Although IT experts are aware of the nature and extent of the risk of cyber events, the manner of response and costs of dealing with these events is often an unknown until one occurs.

Cyber insurance policies are designed to provide pre and post incident support to businesses against the growing threat of cyber events and ensure operational continuity throughout any cyber event.

The 5 biggest cyber breaches of all time are illustrative of the risks facing businesses:

1. Yahoo 2013-2014

All 3 billion users accounts were compromised (names, dates of birth, email addresses and passwords, security questions and answers) and knocked an estimated \$350m off Yahoo's sale price.

2. Marriott International from 2014-2018

500 million customers' data was stolen (some combination of contact information, passport numbers, travel information, and other personal information) Marriott believes that credit card numbers and expiration dates of more than 100 million customers were stolen.

3. Adult Friend Finder October 2016

20 years of data was collected from six databases that included names, email addresses and passwords. The passwords were largely weak and therefore 99% were hacked.

4. eBay May 2014

145 million users compromised - this hack exposed names, addresses, dates of birth and encrypted passwords. The company said hackers got into the company network using the credentials of three corporate employees, and had complete inside access for 229 days. Thankfully, credit card details were stored elsewhere and were not compromised.

5. Equifax July 2017

Equifax (a large credit bureau in the U.S.) had hackers access 147.9 million consumers' personal information, including 209,000 who had their credit card data exposed.

According to Ponemon 2018 Cost of a Data Breach Study: Global Findings, in 2018 alone, 2.8 billion consumer data records were exposed at an estimated cost of more than US\$654billion. Of that 97% was personally identifiable information. This was in spite of \$114B investment in information security products and services.

What should you do

The best cyber policy for your business should be one customised to your unique business needs. If you are concerned about cyber exposure, do not delay in speaking to your broker.

The Client Experience



What is the “client experience” and what does it mean to you...the client?. Have you ever felt like you are simply a client number and not an actual person to a service provider?

Recent research has shown that you, as a broker client, need to know that you are important to the business providing services to you. When it comes down to it, prices are important, as well as the correct cover. But the one thing that trumps all else is the confidence in knowing that when you speak to your broker, you know that they are listening to your requirements, will take all your specifics into consideration and will find the best cover to suit your needs. It is this service aspect that you should come to expect from your provider.

Direct insurers are making ‘attractive’ pricing offers and seem hell bent on commoditising insurance so that pricing becomes a key factor in decision-making process; however, it does not replace the service that comes from someone who knows your business. There is also the peace-of-mind that comes with

knowing that you are being individually advised and solutions are being tailored just for you.

We as brokers need to receive and act on any feedback that you as our client, provides to us to ensure that we keep your interests in front of mind and to assist with future planning. From a claim perspective – this is where the personal service comes to the fore and you as a client must be kept in the loop on all correspondence and be as up-to-date as we are. Claims Service is the lynchpin of our offering and it is here that the proverbial “rubber hits the road”.

There is an abundance of information out there on industry and risk knowledge relevant to your business, industry or circumstances and this can be shared with you in conversation or perhaps a blog if the need arises. We also use this information to make appropriate decisions on your important insurance solutions.

Most of all and to put it simply - you are important to us and we would like to say thank-you for trusting us with your business!

Be sure. Before you insure!

Ask your CQIB broker about...

Commercial and Retail Insurance

- Business Property
- Business Interruption incl Loss of Rent
- Liability
- Burglary and Money
- Glass Breakage
- Machinery Breakdown
- Computer
- Goods in Transit
- Tax Audit
- Motor
- Contract Works
- Commercial Strata

Liability

- Public and Products Liability
- Professional Indemnity
- Management Liability
- Directors and Officers
- Employment Practices Liability
- Statutory Liability
- Cyber Risk

Premium Funding

Private and Domestic Insurance

- Home and Contents
- Car, Caravan, Boat and Trailer
- Travel
- Residential Strata

Life, Disability and Partnership

- Life/Accident and Illness
- Term Life
- Long Term Disability/Income Protection
- Key Man
- Superannuation

The CQIB represents over 57 Queensland firms employing nearly 400 staff and placing in excess of \$500,000,000 in annual premiums. The CQIB charter is to maintain the level of professionalism of its members by the sharing of knowledge, information and ideas.



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The articles in Brokerwise are provided as information only. They are not general or insurance broking or legal advice. It is important that you seek advice relevant to your particular circumstance.

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Wisewords

“The secret of
getting ahead is
getting started.”

— Mark Twain

“Ideas are easy.
Implementation is
hard.”

- Guy Kawasaki

“Your most unhappy
customers are your
greatest source of
learning.”

- Bill Gates