

Is A Director Liable For The Debts Of A Company?

If a company gets to the point where they can not pay their bills they are called insolvent. An insolvent company in Australia, is a company that is not following the provisions of the Corporation Act, which states that the company must be solvent in order to be trading.

Violating the Corporation Act potentially means trouble for the director of the company. You see when you are the director of the company you have to make sure the company follows all applicable laws. In addition if there are share holders or creditors you also have duties to them as well to make sure things in the company are going well for them. That means you have to make sure everyone's interests are protected.

As the director if you don't do this you aren't in compliance with the Corporation Act and you could become personally liable for the company's debts, especially if you go bankrupt. What happens is the ASIC can charge you compensation proceedings that equal the amount the creditors lost. Additionally there can be a charge of up to \$200,000 just for violating the Corporation Act.

If as the director you do your part to make sure everyone's interests are protected, you stay on top of what is happening financially with the company and creditors and you act honestly as the director you might be able to use this as a defence in order to not have to pay the civil and proceedings charges.

On top of this the director might also be held personally accountable if taxes of the company are not paid. If the company does not pay the taxes the government comes after the company, but if there is nothing to get from the company they can actually make the director liable because he did not do his job and make sure the company was paying all their bills, including their taxes.

In conclusion if you are a director there are a few things you can do to protect yourself. First you must always be sure to act honestly on behalf of the company and everyone who has interests in the company. On top of that, make sure the company can always pay their bills and their taxes, and if there are any problems, be sure to get financial advice. If you believe that the company is near insolvent or is insolvent, stop trading so that you do not violate any laws. From this point consult further with someone on your financial situation do what is in the best interest of everyone.

One last note, if you as the director ever become bankrupt you must appoint someone new as the director, a director is not allowed to act if they have received a personal bankrupt.