

WHAT ARE MY RESPONSIBILITIES AS A COMPANY DIRECTOR



A director's main role is to manage the business affairs of a company. This important role brings with it not only numerous rewards, but also a number of responsibilities under the Corporation's Act. If not met, then directors may face significant penalties and in extreme cases, jail time. A summary of these responsibilities are provided below.

What Are My Duties As A Company Director?

- To exercise your powers and duties with the same level of care and diligence that a reasonable person would have.
- To understand what your company is doing at all times.
- To act in good faith in the best interests of the company and for a proper purpose.
- To act in the company's best interest, even if this conflicts with your personal interests.
- To not improperly use information through your position to gain advantage for yourself.
- To appropriately deal with any conflicts of interest.
- To prevent your company trading whilst insolvent. A company is insolvent if it can't pay all of its debts as and when they fall due.
- To keep adequately keep financial records to correctly explain the company's financial position. Note, a lack of financial literacy is not considered an appropriate excuse.

What Company Liabilities Am I Personally Responsible for?

Generally speaking, a company is a separate legal entity and it is usually the company itself that is liable for any debts. There are however, a number of important exceptions to this principle. These include;

- Where a director's guarantee has been provided eg to a bank, landlord, finance company etc.
- If found to be Insolvent trading
- Under the existing Director Penalty Regime, if a company has been placed into liquidation and there are PAYGW and superannuation liabilities still outstanding, then a company director will be held personally liable for these.

Recent Changes to Director Duties

The recent 2018 budget has proposed that the existing Director Penalty Regime be extended to apply to GST, luxury car tax and wine equalization tax. This means that if a company goes into liquidation still owing any of these, then the liability will be attributed to the directors who will be held personally liable for these company liabilities.

If you would like more information about your duties as a company director, then feel free to contact Silvia Caratti of Maxim Private Advisory on (08) 9489 2532 or s.caratti@maximadvisory.com.au

Please note that this is general information only and professional advice should be obtained before acting on any information contained herein.