

# COMPANY DIRECTORS' PERSONAL LIABILITY TO BE EXPANDED

Under proposed changes to the law, the personal liability of company directors will be increased for the withholding of Pay-As-You-Go (PAYG) and Superannuation Guarantee (SG) amounts from employee wages.

Under the proposed changes:

- Directors' liability will be increased to make directors personally liable to their company's unpaid superannuation guarantee amounts. This is in addition to being liable for PAYG amounts.
- The Australian Taxation Office (ATO) will be permitted to commence recovery action immediately if a company's liability remains unpaid and unreported three months after the due date.
- The ATO will also have the discretion to reduce directors' PAYG withholding credits on their salaries to cover the outstanding PAYG liability of the company.
- New Directors can also become personally liable for Super Guarantee and PAYG withholding amounts, 14 days after their appointment to their position.

There are limited defences to personal liability. A director must put forward their defence to the ATO within 60 days of receiving a director penalty notice.

These changes are intended to protect employee's entitlements. While they are targeted at directors involved in 'phoenix' activities, it does reiterate the importance of directors being aware of their company's employee tax obligations.

These changes are expected to be enacted before the end of 2011.

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