



# Take Back Control With A Business Debt Solution

## About Revive Financial

Our team of financial professionals at Revive Financial have guided over 10,000 individuals and businesses towards financial freedom since 2005. The team includes:

- ✓ Qualified Chartered Accountants
- ✓ Corporate Liquidators
- ✓ Bankruptcy Trustees
- ✓ Registered Tax Agents
- ✓ Debt Agreement Administrators
- ✓ Professional Debt Negotiators
- ✓ Experienced Lenders who hold an Australian Credit Licence

With these unrivaled qualifications and a passion for industry leading service standards we're able to provide a suite of specialist debt solutions to vulnerable Australians in the face of financial distress.

## Why Revive Financial



### Positive Outcomes

We've helped over 10,000 Australians take back control of their financial future. But don't just take our word for it, we've got thousands of [reviews](#) to prove it.



### Judgement Free

At Revive Financial, we care about the stress and impact being in debt has on your wellbeing. We want to help you take back your control, no judgement, just a helping hand.



### Immediate Results

Once you've committed to a solution with our team, we'll help hit pause on the interest and stop those harassing calls and letters immediately.



### Australian Owned

Revive Financial is proudly Australian owned and operated. With a focus on customer service, our caring staff have been helping customers take back control since 2005.

# Business Debt Solutions



## Company Liquidation

If your company has too much debt, you're worried about trading insolvent, and you can't see a future for your business, liquidation is likely your best path forward. While it may seem like a negative solution or admittance of failure, it's actually a cost-effective way to wind things up quickly and start afresh.

Liquidation is a formal insolvency appointment. It involves handing your company over to a registered liquidator who sells you assets, pays your creditors, and dissolves the business. The liquidation process typically takes around six to 18 months for an average-sized company.

There are three types of liquidation: creditors' voluntary liquidation (CVL), members' voluntary liquidation (MVL), and court liquidation, which is involuntary and typically issued if a statutory demand hasn't been paid. CVL is the most common type; for MVL to go ahead, creditors must majority agree on a Declaration of Solvency.



## Voluntary Administration

If your business is experiencing financial difficulties and is unable to pay its debts, voluntary administration can give you the breathing space you need to assess your options and form a plan without creditors chasing payment. Where appropriate, you can continue trading.

Voluntary administration is a formal insolvency appointment that means handing over your company's affairs to an administrator. The process typically takes 25 days (or 30 days if over Christmas or Easter). In some situations, the court can agree to extend this.

You may be wary of voluntary administration, but it actually offers many benefits. It can provide a quick resolution to your struggles, improve your chances of staying in business, and ease the mental strain. It also typically offers a better outcome for creditors than liquidation and can avoid legal action.



## Business Turnaround

Running a business in Australia can have its challenges. From fluctuating market conditions to cash flow pressures, many businesses find themselves in a position where implementing a turnaround strategy (e.g. company restructuring) is the only way to survive.

In this situation, recognising financial turmoil and responding quickly is vital. Sweeping problems under the rug, failing to challenge the business model, and avoiding necessary business restructuring has been the cause of many business failures.

But if you address a major issue in your business early enough, you can minimise its effect and may even be able to achieve a successful turnaround.



## Restructuring & Small Business Restructuring Process (SBRP)

No one wants to be at the helm of a failing business. But sometimes circumstances mean that profitability drops and you're left lying awake at night trying to figure out how you can turn things around. Often, this can feel overwhelming and impossible.

In this situation, restructuring, an informal insolvency appointment, is the recommended solution. Importantly, the quicker you take action to save your business, the better the outcome.

When you're close to your business, it can be hard to see the wood for the trees. As independent restructuring experts, we have the advantage of being able to look at your situation objectively, make tough, what would be, emotional decisions, and create a clear and effective plan of action going forward.

The latest evolution in this space is a low-cost Small Business variation that is a four to seven week process where you engage Revive Financial as your restructuring advisor to propose a reduction of your company's debts and/or an extension of time to pay them back, up to 3 years. You remain in control of your businesses operations during the entire process. To be eligible for the scheme, your company needs to have less than \$1 million of debt, have lodged all of its ATO returns and paid all required superannuation to employees. Further information can be found in some of our latest articles [here](#) and [here](#).



## Tax Debt Solution

The Australian Taxation Office (ATO) is one of the biggest triggers for company liquidations – and personal bankruptcies. So, if you're struggling with overwhelming tax debt, it's time to take control and deal with the situation before they come knocking.

As tax debt experts, we work to help you manage your tax debt by negotiating relief with the ATO for you and formulating a repayment plan. We can also help you refinance existing mortgages to pay out your tax debt or potentially restructure your business.

The key to success and avoiding the ATO taking steps to recover the debts is communication and transparency. Even seemingly insurmountable tax debt can be overcome when dealt with openly and honestly. Our aim is always to look at ways to protect your assets, preserve your wealth, and ease the mental strain.



## Loans & Refinancing

Mounting business debt or a need to grow without capital can leave you feeling like you have nowhere to turn, especially if you're unable to access a secured loan fast enough or don't have enough collateral behind you. The good news is there are avenues to explore.

Our loan and refinancing experts will assess your situation and help you find the right loan option for your business. This could mean accessing equity in your home, finding a suitable fast business loan or restructuring your existing debt so you can deal with cash flow issues.

There are plenty of specialised lending options out there to help you set your business up for a healthy financial future – and there's no shame in reaching out and seeking expert advice. Don't worry about being pushed certain products; we're not affiliated with any lenders. Our focus is on you and your wellbeing – financial and otherwise.

## Our Process

### 1 Speak to a Financial Professional

Get a free tailored assessment of your financial position, an overview of all of your options and recommended course of action.

### 2 Provide Financial Information and Identification

If you choose to go ahead you'll need to provide the information listed in our checklist to progress.

### 3 Make Payment

Where it is uncertain what assets a company has to meet the expected costs, an up-front payment is required.

### 4 Sign final forms and documents

There's nothing for you to do here just yet – this is the final stage to commence the liquidation. We'll communicate with you further before you're ready for this step.

After we've received your financial information, we will draft the necessary ASIC forms and provide them with the appointment document for you and any other directors/shareholders to review and sign electronically. No printing necessary.



# Frequently Asked Questions

Knowing the answers to these questions can help remove some of the uncertainty and get you in a better headspace to deal with the issues effectively. Here are some of the most common questions we hear, with our answers below.

## 1. Will I go bankrupt and lose my house if I appoint a liquidator?

No. Your company and personal financial affairs are separate. Appointing a liquidator to your company doesn't directly impact your personal finances or mean you'll go bankrupt personally.

However, while company debts generally remain with your company, there are several situations where you can be held personally liable for your company's debts. Some of the most common are:

- **Insolvent trading** – [Insolvent trading](#) is when your company continues trading while insolvent and you run up debts you cannot pay. It's important to seek assistance if your company is struggling to pay its debts.
- **Superannuation and BAS debts owed to the ATO** – A director can be held personally liable for these debts under an [ATO director penalty notice](#). Liquidating your company can avoid personal liability for these debts as long as BAS and super guarantee charge returns have been lodged on time.
- **Personal guarantee debts** – Often directors are required to guarantee their company will pay its debts. Such agreements often include premises leases with landlords, trade suppliers and loan and finance debts.
- **Director loan account balances** – If you take your pay as drawings, this balance is recorded as a loan account. It may therefore be recoverable by a liquidator. This is a common tax-saving setup.

There are also several [less common claims](#) you can be held personally liable for, including illegal phoenix activity and unfair dismissal.

If you've provided guarantees or keep trading and become personally liable for the above debts, you may be forced to refinance or sell your house to pay them – or look at personal insolvency options, such as bankruptcy.

It's important to remember that by continuing to trade without professional advice and a restructuring plan, you're probably making your situation worse.

## 2. Can I save my business?

Yes. If you're reading this, you're on the right track. The first step to saving your business is to assess whether it's viable. In other words, does it have the potential to survive and thrive?

If there's any question about your company's ability to meet its debts, you may be insolvent. Seek professional advice from a restructuring advisor to determine whether a turnaround or restructuring plan should be implemented.

If your business is no longer viable, a common aftereffect of COVID-19, you should take steps to wind down and close, avoiding further loss. We can guide you through this process and be appointed as liquidator to finalise your company's affairs.

The good news is, if your business is facing insolvency, it doesn't have to be the end of the road. If you act early, there are a number of options to keep your business on the right track, including:

- Informal turnaround, which may include refinancing and creditor negotiations and/or an ATO payment arrangement. If undertaking this course of action, you should consider implementing [safe harbour protection](#).

- A [small business restructure](#), newly introduced from 1 January 2021
- [Voluntary administration](#) in order to propose a deed of company arrangement
- [Selling your business](#) – possibly to a related entity – before or following the appointment of a liquidator or administrator.

Don't wait too long to take action. The ATO or another creditor could begin action to recover their debts from you personally – or wind up your company. As hard as it can be to get help and save your business, in our experience, worse outcomes arise from doing nothing.

## 3. Will the tax office come after me personally for my company's tax debt?

No, as long as you act early. In some circumstances, directors can be held personally liable for their company's superannuation and BAS debts owed to the Australian Taxation Office (ATO).

The ATO can seek to make a director personally liable for these debts under an [ATO director penalty notice](#). Appointing a liquidator or administrator to your company can avoid personal liability for these debts:

1. for periods where a debt remains unpaid, the respective BAS or superannuation guarantee charge statements have been lodged on time; and
2. a director penalty notice hasn't been issued or, if it has been issued, an administrator or liquidator is appointed within 21 days of the date of the notice.

Director penalty notices are issued to the director's personal residence, which is recorded with ASIC, so it's important you keep your details up to date.

In our experience, while the ATO is keen to recover money owed, the primary reason for issuing a director penalty notice is to encourage a company that's not meeting its lodgement and/or payment obligations to deal with it promptly.

## 4. What happens if I just keep trading or do nothing?

Sometimes a company has no money to meet the cost of liquidation, and its directors may not be able to meet these costs either. Because of this, we often see business owners delaying necessary action out of fear and uncertainty. However, worse outcomes usually arise from not acting.

If you do nothing, a couple of things can happen. Either a creditor, often the ATO, will take steps to wind up your company through the court and have a liquidator appointed. Alternatively, ASIC may take steps to deregister your company if it's non-compliant.

Further information is available in our article on [company deregistration and creditor winding up](#).

## 5. Can I keep my cars which are in the company?

Yes. It's common for directors' personal cars to be in their company and subject to finance agreements. This often causes a delay in directors going ahead with an insolvency appointment due to the fear of losing their car. However, this inaction can lead to worse outcomes.

Many financiers will allow your company car to be refinanced into your name personally or possibly into an associated company before liquidation. Where this isn't possible, you may need to sell your financed vehicle to pay out the existing loan. You can then look to purchase a new vehicle personally or in a related company.

Alternatively, liquidators have two other options:

1. If your car is worth more than the finance, the liquidator can sell it to you for fair value and you can pay out the finance; or
2. If it's worth less than the finance payout, the liquidator will disclaim the vehicle (meaning the company has no further interest in it). It's then down to the financier and you to discuss arrangements for you to keep the vehicle.

## 6. My company owes me money, can I pay myself?

No, except for wages for your ongoing employment.

Often directors will be owed loans, wages or leave by their company. While it's tempting to repay these debts, as director, you have duties to preserve your company's remaining assets and treat all creditors equally.

Employees have priority for their entitlements ahead of other creditors. Directors also have this priority, however, it's limited to \$2,000 for wages and superannuation and \$1,500 for leave entitlements.

If you're providing money to your company or not drawing a wage, there are some smart ways to loan money to your company to ensure you don't lose out.

## 7. How will a company insolvency appointment affect my personal credit file?

How a company insolvency will affect a director's personal credit file is a common concern.

If there's a default, winding up application or liquidation recorded against your company, it will likely show on your credit file. Your bank or a potential financier will certainly have some questions.

If you're maintaining your mortgage, credit card and car/personal loan payments, these should not be affected. If you're looking for a new loan in another company or for yourself personally, it may be more difficult. The bank may ask you to provide further financial information, pay a higher interest rate, or offer you less than asked for.

Ultimately, any finance application will need you to demonstrate your income and the ability to service the loan you're seeking. We work with specialist finance brokers who can assist you in these situations.

This should not delay your decision to deal with your company's financial difficulties. Doing so may be more costly and could result in claims against you personally, putting you in a much more difficult position to obtain finance.

## 8. What are the options for my business?

If your company is in financial difficulty, you need to establish that your business:

1. is viable to keep trading;
2. can manage cash flow to meet day-to-day expenses; and
3. can return to a sufficient level of turnover to meet its expenses and pay a wage to you, the director or business owner.

If your business is no longer viable, as is not uncommon post-COVID-19, you should take steps to wind down and close. We can guide you through this process and be appointed as liquidator to finalise your company's affairs.

If your business is facing insolvency, it doesn't have to be the end of the road. If you act early, there are several options to keep your business on the right track, including:

- Informal turnaround, which may include refinancing, creditor negotiations and/or an ATO payment arrangement. If undertaking this course of action, you should consider implementing [safe harbour protection](#).
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- [Voluntary administration](#) in order to propose a deed of liquidation
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## 9. Can I start another company?

Yes, there's no restriction on you being a director if your company goes into liquidation.

You're only prevented from being appointed as a director if you become personally bankrupt, enter a personal insolvency agreement as an alternative to bankruptcy, or if ASIC disqualifies you due to issues with your conduct as director.

## 10. How do I deal with a liquidator's claims against me?

A liquidator may have various claims against you, as covered above. Most often these claims are for director loan accounts or insolvent trading. But claims are also available to the liquidator against a director for breaches of directors' duties or voidable transactions.

If you're worried a liquidator will pursue claims against you or make you bankrupt, it can be very difficult to proceed with appointing one, even if it's the right thing to do.

In reality, most liquidator claims are resolved without ending up in court. And just trading on, or delaying action, usually makes things worse. The longer your company trades while insolvent, the greater the potential claims the liquidator, the ATO and personal guarantee creditors will have against you as director.

It's recommended that you seek legal advice regarding your options to deal with any claim against you. Failure to properly address a claim may result in court action and bankruptcy.

As with any legal claim, there are generally five options to deal with a liquidator's claims:

- Pay the claim in full
- Offer to settle the claim for less than the full amount
- Dispute the claim
- Provide details of your personal financial position to help the liquidator in assessing if you have the financial capacity to meet a successful claim
- Do nothing, in which case the liquidator will decide whether to pursue the claim further

Individual liquidators have varying approaches to pursuing legal claims. However, where claims aren't pursued, this is most often on commercial grounds. That means there may not be any expected benefit to your company and its creditors for pursuing the claim, or the benefit may be limited.

There are various other factors affecting whether a claim is pursued, which the liquidator will consider in each case. A liquidator's primary role is to act in the best interests of creditors, and, therefore, any step a liquidator takes has that duty in mind.

It's important to note that creditors may fund a liquidator to pursue claims, or they may obtain the liquidator's consent to pursue insolvent trading for their own debt. Additionally, a liquidator may assign any claim they have to a creditor or other party.

Being clear on what you should and shouldn't do if you're in financial hot water, and understanding your requirements for being a director, can ease the stress and help you see more clearly. The overriding advice is to take action straight away – doing this will help lead to the best outcomes.