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## *ATO Strengthens Position (I.e. DPN's Issued Post Liquidation)*

### Background

As you are aware the Director Penalty regime changed on the 29<sup>th</sup> June 2012 to not only extend to unpaid Superannuation but to remove the capacity of a Director to discharge or extinguish a DPN by placing a Company into Liquidation or Administration where PAYG and or Superannuation remains unpaid and unreported for (3) three months after the due date.

### New Strengthening of Position by ATO

Up until recently we had not witnessed the ATO to ever have issued a DPN post Liquidation and in our view to do so is potentially in conflict to the stated policy objective when introduced.

However we now have, and for those Directors of Companies that were in arrears with their lodgements as at 30<sup>th</sup> June 2012 they are now personally liable for the relevant debt and cannot discharge that liability by placing their Company into Liquidation or Administration if there is or was unreported PAYG at that date or Superannuation (post 30/06/2012 period) for in excess 3 months (those DPN's are referred to as "Lockdown" Director Penalty Notices).

The ATO has also indicated it is looking at some Companies that were placed into Liquidation prior to 30<sup>th</sup> June 2012. In summary tough times and about time.

### Solutions

- Ensure all lodgements are current and;
- Ensure all arrears in respect to periods for which lodgements may have fallen outside the (3) three month rule are brought up to date or;
- Give early consideration to possible Voluntary Administration as this may enhance your client's ability to trade forward and reduce their personal exposure risk or;
- Give early consideration to Liquidation before ATO debt accrues to an unmanageable figure

**Finally as always we at Chamberlains SBR are more than welcome to discuss any matter with you or your clients regardless of how trivial it may appear.**

*Chamberlains SBR, Chartered Accountants - Specialises in Personal & Corporate  
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