Directions

Volume 64, September 2024

Editorial Note

Welcome to the latest edition of the Pilot Directions newsletter.

I hope your new financial year has begun well, and that you had time to enjoy the excitement and take inspiration from watching our Australian athletes competing in the Olympic Games and Paralympic Games in Paris across August and September.

With the preparations and financing for the Brisbane Olympic Games a red hot topic, this edition delves into Crowd-Sourced Funding, a business financing model we've recently assisted clients with.

In addition, as the Australian Taxation Office ramps up its focus on tax debts, we thought it timely to discuss what we're seeing and some solutions in this space.

Our 'News & Insights' page provides the latest news and updates on a number of topics that we trust you will find useful and interesting.

We hope you enjoy this edition.

BRIAN MCDONALD

Firmer Action On Tax Debts

The Australian Taxation Office (ATO) tax receivables increased by $40 billion from 2018 to 2023, forcing a shift in their approach to collecting tax debts following the pandemic. There are several ways we are seeing this shift:

1. Interest Charges and Payment Plans

Many businesses exploited ATO payment plans and delayed payments to manage cashflow. The ATO is now enforcing stricter policies to accept payment plans and rejecting requests to remit interest charges. Businesses must now be more proactive in their cashflow management strategies such as preparing budgets or cashflow forecasts, obtaining finance (where applicable) or restructuring options.

2. Director Penalty Notices (DPNs)

The ATO issued 26,702 director penalty notices worth $4.4 billion in the 2024 financial year. DPNs arise from unpaid Pay As You Go (PAYG) withholding, Goods and Services Tax (GST) and Superannuation Guarantee Charge (SGC), and can convert corporate debt into personal debt. If you receive a DPN, it's important to act fast as you only have 21 days (from the date the ATO posted it).

Directors can avoid personal liability for these debts if they:

1. Cause the debts to be repaid, or
2. If provided as an option within the DPN, appoint:
   a. An administrator, or
   b. A small business restructuring (SBR) practitioner (see below), or
   c. A liquidator.

Not all DPNs provide the second option. It is important to seek assistance immediately on receipt.

3. Small Business Restructuring

While heavy-handed in other areas, the ATO are considering SBR plan proposals.

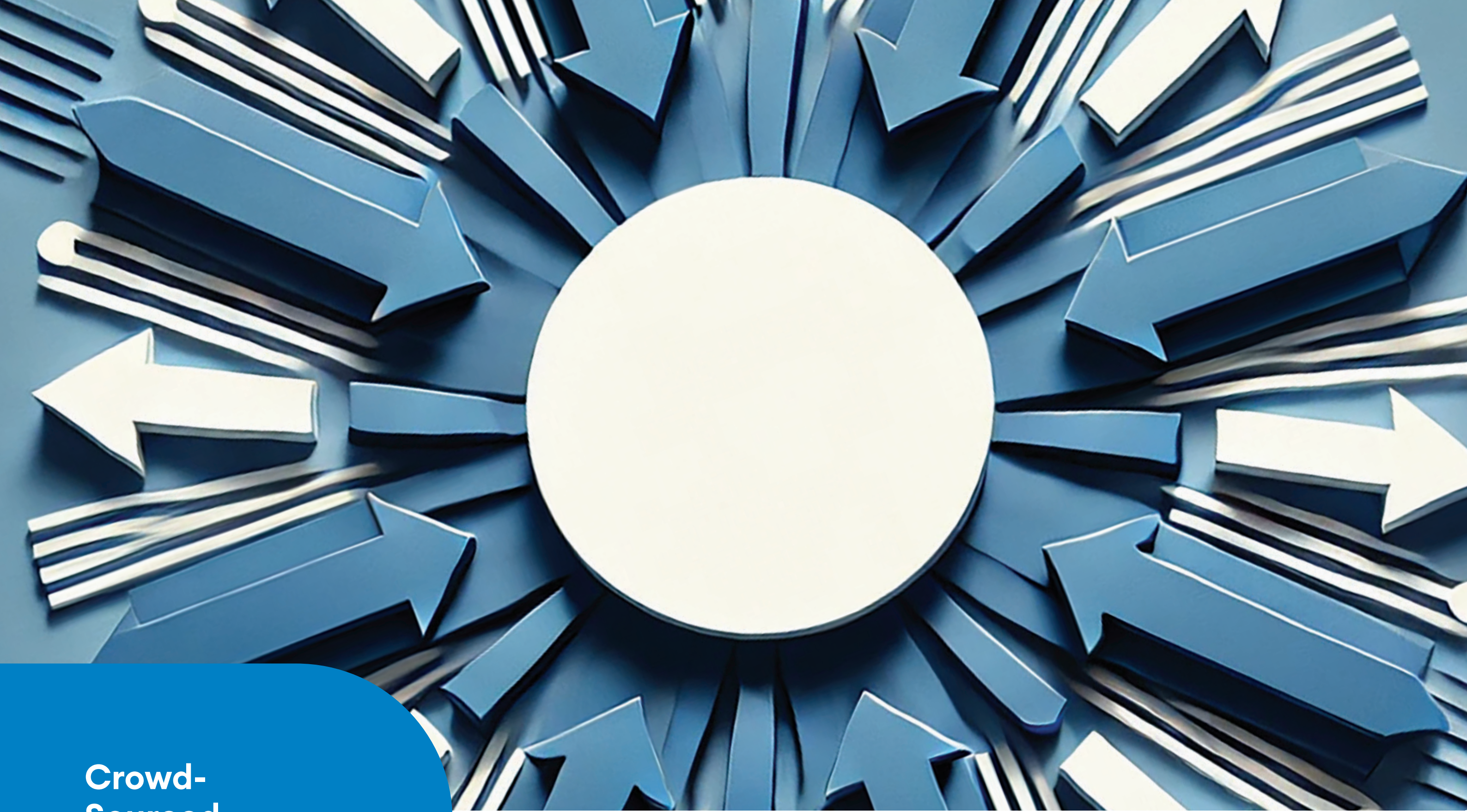
The SBR regime allows business owners to retain control of their business while under restructuring. An Australian Securities and Investments Commission (ASIC) review of the SBR regime indicated dividend rates in restructuring plans are 30c/$ or less in over 90% of cases.

There are only a few criteria you must meet to be eligible for the SBR regime, the main criteria being:

1. Liabilities less than $1 million (excluding employee entitlements).
2. Employee entitlements are paid (excluding those not due, for example annual leave etc).
3. Taxation lodgements are up to date (not necessarily paid).

Contact Pilot

If you require assistance with cashflow management, advice on a DPN or would like to know more about your restructuring options, including if your business is eligible for SBR, contact **Cameron Woodcroft** on **cwoodcroft@pilotpartners.com.au**, **Brad Hellen** on **bhellen@pilotpartners.com.au** or your **Pilot advisor** on **(07) 3023 1300.**



Crowd-Sourced Funding

Crowd-sourced funding (CSF), often referred to as crowdfunding, is a financial service that enables start-ups and small businesses to raise capital from a large pool of investors, each contributing small amounts. This method allows businesses to finance their operations through loans, donations, or by offering rewards or shares in return for investment.

Eligibility under the CSF Regime

Both unlisted public companies and proprietary companies can utilise crowd-sourced funding, to raise up to $5 million in a 12-month period.

To be eligible, the company must have at least two directors, with the majority residing in Australia. The principal place of business must also be located in Australia, and the company must comply with the gross asset and revenue caps of $25 million. Additionally, the company must not operate as an investment company, meaning it cannot derive substantial income from investing in other companies, entities, or schemes.

The Crowd-Sourced Funding Process

To begin the process, companies must launch a campaign on a crowdfunding platform, which serves as an intermediary. Investors can then support the campaign by contributing funds.

Offer Document Requirements

Eligible public and proprietary companies may offer shares to investors through an intermediary CSF platform, using an offer document.

A number of obligations and investor protections apply to CSF offers, including:

- an investor cap of $10,000 per annum per company for retail investors
- the provision of a CSF offer document containing minimum information and a prescribed risk warning
- a five-day cooling-off period.

Benefits of Crowd-Sourced Funding

Crowd-sourced funding is generally faster and more cost-effective than a traditional capital raise, which typically requires a prospectus.

With crowd-sourced funding you can expect to incur a broker fee as well as legal and accounting costs. A listing or prospectus would incur listing fees, brokers costs, underwriting fees, legal and accounting costs, typesetting fees, public relations expenses, and company secretary costs.

Risks of Crowd-Sourced Funding

Ultimately the directors of the company undertaking the crowd-sourced funding bear the majority of the risk. A degree of risk is also carried by the intermediary or broker facilitating the funding.

Investors also face potential risks. Many businesses seeking crowd-sourced funding are new or rapidly expanding start-ups. While crowd-sourced funding involves less disclosure than other types of capital raising, the offer document must clearly state that investors may lose their entire investment. Additionally, crowd-sourced funding investments are often illiquid, meaning investors may struggle to recover their funds.

Reporting, Audit and Governance

Corporate governance and reporting obligations differ slightly for public and proprietary companies, with specific requirements related to crowd-sourced funding. There is an audit obligation once a company raises over $3 million through crowd-sourced funding.

Contact Pilot

Pilot provides assistance with the preparation of financial statements and reports for crowd-sourced funding, including audited financial reports when required. We can also advise on accounting policy choices and other complex matters including taxation advisory related to crowd-sourced funding. For more information, please contact **Chris King** on **cking@pilotpartners.com.au**, **Josh Meggs** on **jmeggs@pilotpartners.com.au** or your **Pilot advisor** on **(07) 3023 1300**.

News and Insights

How to keep SMSF tax benefits if moving overseas

The Tax Office requires self-managed superannuation fund (SMSF) trustees to pass three tests if they wish to remain classified as an “Australian superannuation fund” to maintain their tax benefits. Firstly, the fund needs to have been established in Australia or hold investments here. Secondly, central management and control of the fund must be ordinarily in Australia. The third test is known as the “active member test”. It is imperative that the right planning goes into any decision for an SMSF trustee moving overseas, to avoid potential problems and costly tax penalties of failure to maintain the “Australian superannuation fund” classification.

Property valuations & SMSFs

With Australian property prices continuing their rapid rise, SMSFs are in the spotlight for failing to update the market value of residential investment properties and commercial buildings such as farms and medical practices. Unlisted companies and unlisted unit trusts may also attract attention. Media coverage of this Tax Office audit campaign is linking it with the government’s plan to impose additional tax on superannuation earnings above $3 million from July 1, 2025. With super funds required to undertake property valuations every year, this increased focus on valuations is an important risk area for funds to manage in this economic climate.

Record keeping for crypto assets

It is essential to keep detailed records for each of your crypto assets and for every transaction. These details are needed to work out whether a capital gain or loss has been made. Keeping good crypto records is essential for meeting tax obligations. For your crypto assets, some of the records you need to keep include: receipts when you buy, transfer or dispose of crypto assets; a record of the date of each transaction; exchange records; a record of the value of the crypto asset in Australian dollars at the time of each transaction; digital wallet records and keys; and a record of any costs. You need to keep details for each crypto asset as they are separate Capital Gains Tax (CGT) assets. Keeping good records is essential for meeting your tax obligations.

Share investing vs trading

Are you a share investor or a share trader? Do you know the difference? Determining if you are a share trader is the same as determining whether your investment activities are considered to be carrying on a business for tax purposes. Under tax law, a business includes ‘any profession, trade, employment, vocation or calling, but does not include occupation as an employee’. To work out whether you are a share trader or a business of trading shares, there are a number of factors to consider, including: the nature and purpose of your activities; the repetition, volume and frequency of your activities; whether your activities are organised in a business-like way; and the amount of money invested. It is wise to ensure you understand your classification as share investor or trader before you invest your capital, so you can plan appropriately for the relevant tax obligations.

Welcome to the Team

Pilot welcomes the following new team members.

Maia McCarthy joined Pilot as Graduate Accountant in the Corporate Advisory team. Maia holds a Bachelor of Commerce with a major in Accounting and Financial Planning from Griffith University.

Patryk Fiedorowicz joined Pilot as Graduate Accountant in the Corporate Advisory team. Patryk holds a Bachelor of Business with a major in Accounting from Queensland University of Technology.

Jay Reid joined as Undergraduate Accountant in the Business Advisory team. Jay is studying a Bachelor of Business, majoring in Accounting and Taxation, at Griffith University.

Mac Stenson joined as Undergraduate Accountant in the Business Advisory team. Mac is studying a Bachelor of Commerce, majoring in Accounting, at University of Queensland.

Emma Lake and **Emily Short** joined as Bookkeepers in the Bookkeeping team.

Georgia Bird joined as Administration Assistant in the Finance and Administration team.

Congratulations

Happy Pilot anniversary wishes to **Kevin Duong** for 10 years with Pilot. We thank Kevin for his tenure with Pilot and the many contributions he has made to the firm and look forward to Kevin's continued journey with Pilot.

Congratulations to our CA graduates, **Rebecca**, **Sara**, **Stephanie** and **Oliver** who attended the CA ANZ ceremony this quarter to receive official recognition of their hard-earned certification. Well done to them all on this significant milestone in their career.

Our Pilot family has been lucky enough to welcome a new baby this quarter, with **Ramona McGregor** welcoming baby Clara into the world. Congratulations to Ramona and her husband Ben on their beautiful baby girl.


Stephanie, Rebecca, Sara & Oliver

Socials & Events

Nexia Week

Nexia Week


Baby Clara


EOFY Party


EOFY Party


EOFY Party


EOFY Party


EOFY Party


EOFY Party

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