

Director Penalty Notices (DPNs)

DPNs issued by the Australian Taxation Office (ATO) can make company directors personally liable for unpaid tax debts. It's important directors understand their obligations and act quickly to protect their personal assets.

Key points

- **Personal liability:** DPNs pierce the corporate veil, making directors personally liable for company debts.
- **Types of debts:** Includes Pay-As-You-Go Withholding (PAYGW), Goods and Services Tax (GST), and Superannuation Guarantee Charge (SGC).
- **Time-sensitive action:** Directors have only 21 days from the date of issue to respond.

Types of DPNs

Non-Lockdown DPN

Issued when:

- BAS lodgements up to date and/or
- SGC Statements are lodged on time.

Action options (within 21 days):

- Repay the debt.
- Appoint a:
 - Voluntary Administrator
 - Small Business Restructuring Practitioner
 - Liquidator

Lockdown DPN

Issued when:

- BAS lodgements 3 months overdue and/or
- SGC Statements lodged late.

Action required:

Repay the debt within 21 days. No other options are available.

Consequences of inaction

Failure to act within 21 days may result in:

- Personal liability
- Offsetting of personal tax credits.
- Legal proceedings including bankruptcy or liquidation.

I'm a new director, is it the old director's issue?

As a new director, you can be held personally liable for unpaid tax and superannuation debts incurred before your appointment. To avoid this, you must act within 30 days of becoming a director by ensuring:

- The company pays the debt, or if unable
- Appointing an administrator, small business restructuring practitioner, or liquidator is appointed.

Always conduct due diligence before accepting a director role to avoid unexpected personal liability.

Keep records up to date

The ATO issues a DPN to your Australia Securities and Investments Commission (ASIC) registered address, regardless of the ATO address on file. So it is important to keep your address up to date with ASIC.

I've resigned as a director, am I off the hook?

Resigning doesn't erase your liability. You can still be held personally responsible for tax and super debts that fell due while you were a director - even years later.



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Key takeaways



1. Seek advice

Seek advice immediately upon receiving a DPN due to strict timeframes.



2. Lodge on time

Lodge BAS and SGC statements within the required timeframes, even if they can't be paid.



3. Update your ASIC address

A DPN will be sent to your ASIC registered address, regardless of what the ATO's records state as your address.



4. Monitor tax liabilities

Monitor and stay on top of your tax liabilities as serious consequences can arise from their mismanagement.



5. Review asset protection

Review your asset protection strategies. Understand risks and adopt measures to protect your personal and business assets.



Contact Pilot

Understandably DPNS can be difficult. Ensuring your company meets its obligations is essential for protecting your personal assets and avoiding DPNs.

If you would like to learn more or have any questions, contact **Cameron Woodcroft, Bradley Hellen** or your Pilot advisor on (07) 3023 1300.