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ES &A FINANCE BROKERS

Welcome to our quarterly newsletter.

With Beef Week fast approaching we are looking forward to catching up with a lot of our Rural clients, we'll be on site all week so drop in for a chat. March saw our annual Coral Cove Golf trip, we had a field of 45 players and once again thanks to our major sponsor for the weekend Jason, Mike and Team from Mack, Volvo & UD Trucks and congratulations to Steve Watson for winning the coveted Green Jacket.

As a result of funds raised over the course of the weekend we were able to donate $1,400 to the Capricorn Helicopter Rescue Service.

In this edition of our quarterly newsletter we take a look at:

- **whether one Bank is the best option for all your finance needs?**
- **the new 'safe harbour' legislation regarding company insolvency**
- **the new GST requirement placed on purchasers of residential land and new residential subdivisions**
- **and in our product focus we take a fresh look at Debtor Finance**

If you are looking for short term unsecured finance for any worthwhile business purpose we have access to a number of funders that provide various options. With a simple application process and terms up to 12 months let us know if this is something that you are considering?

A reminder that up until June 30, small businesses with an annual combined turnover of less than $10 million can still claim up to $20,000 for individual assets acquired within the income year. If you qualify you can claim as many items as you like, just stay under the $20,000 limit.

As always if we can help with any aspect of your finance or you know of someone that would benefit from our services please do not hesitate to contact us to discuss on (07) 4922 7221.

Enjoy the read!

Is one Bank the right choice for all finance needs?

Our experience with clients tells us often this is not the case. In this article we take a look at what businesses both large and small are now considering when looking at where they source their finance needs.

Banks generally look at finance around the following:

- Aggregation
- Security
- Lending approach

Aggregation of Bank facilities

When providing finance most Banks will

Business News - New "Safe Harbour" Legislation added!

On the 19th September last year without much fanfare new “Safe Harbour” legislation became law that sees a major change in the way directors are able to continue trading when the company’s solvency is in question. The *Treasury Laws Amendment (2017 Enterprise Incentives No. 2) Bill 2017* amends the *Corporations Act 2001 (Cth)*, by introducing a safe harbour carve out to a director’s personal liability for insolvent

Legal News - Are you considering purchasing a new residential property or new residential land? - New Laws on GST

The Treasury Laws Amendment (2018 Measures No 1) Bill 2018 has been introduced with the proposal to amend tax laws that will place the onus on purchasers of new residential premises and new subdivisions of potential residential land to make a GST payment directly to the Australian Tax Office as part of settlement from 1 July 2018.

"aggregate" all facilities that they provide to both the company, associated companies and directors.

What is the problem with this approach?
Banks will generally only lend up to a certain percentage of the Market Value of the Assets they hold. As a result of aggregation this may prevent the company obtaining an increase in core working capital facilities (such as the Bank Overdraft) in the future as the bank has reached its prudential level with the company against the security held.

What to consider?
Whilst each company is different in their finance requirements one consideration is to review what finance facilities are held with your Bank? Some companies consider splitting their banking facilities between core banking and non-core banking products (such as Equipment Finance) therefore keeping a buffer for cash flow requirements.

trading.

The reason for new legislation is that the Government is seeking to strike a better balance between the protections of a company's creditors and encouraging honest, diligent and competent directors to innovate and take reasonable risks. To this end, the reforms encourage company directors to engage early with financial hardship, keep control of their companies and take reasonable steps to pursue a corporate restructure rather than just reviewing the solvency of the company and the precise timing of debts being incurred as has previously been the case.

The key with the new legislation is that it retains the existing insolvent trading laws with the significant change is that once a director enters into a safe harbour, under the new legislation they are deemed not to be personally liable. This is providing they take a course of action that is

WHAT SALES DOES THE LEGISLATION APPLY TO?

New residential premises

Under the new arrangements, purchasers will withhold the GST on the purchase price of new residential premises and new residential subdivisions, and remit the GST directly to the Australian Taxation Office (ATO) as part of settlement.

Potential residential land included in a property subdivision plan.
For GST purposes this is defined as "land that it is permissible to use for residential purposes, but does not contain any buildings that are residential premises"

Land which contains any building that is in use for a commercial purpose is excluded.

This change is designed to counter tax evasion where some developers collect GST from their customers but dissolve their company to avoid

Security

A bank will typically take a General Security Agreement ("GSA") (previously known as a Fixed and Floating Charge) over the assets of the company plus real estate security and associated individual and company guarantees

The GSA in particular is a very powerful document that a Bank holds over a company. It provides security over all of present and after-acquired property of the company. This means that the **bank has security over everything the company owns now and in the future**.

This includes debtors, equipment or real estate or any other asset that the company holds.

What are the negatives with a GSA?

- The bank has the right within the GSA to appoint external parties to either review your business or in extreme circumstances

"reasonably" likely to lead to a better outcome for the company and the company's creditors as a whole. However, if a director does not believe that the company can repay any new debts that may be incurred, the safe harbour protection will not apply.

Another change as part of the legislation is the way ipso facto clauses cannot be enforced during a safe harbour period. It is common for commercial contracts to contain ipso facto clauses, which allow a party to terminate or modify the terms of the contract where the other party experiences an insolvency event. A concern addressed by the Government is that these clauses can prevent a financially distressed company from turning the company around as a result of the safe harbour legislation. This part of the legislation is expected to come into force by 30th June 2018 (unless an earlier commencement date is proclaimed).

We recommend that you

paying it to the ATO. Currently, developers may have up to three months to remit GST.

It is expected that the cost impacts on purchasers using conveyancing services are expected to be minor, given this change leverages the existing disbursement process and the use of standard contracts.

Product Focus - Debtor Finance

We can assist your business free up cash in your invoices with access to debtor finance options to help your business grow.

Why Debtor finance?

- As your business grows, the finance facility grows with it
- Unlike overdrafts, you do not require

place your company into external administration, if for example the company fails to meet any covenants placed on it (such as financial covenants). We also know of examples where an investigative accountant (at the company's cost) has been appointed even when a client was meeting their obligations.

- Any equity in the assets of the company is effectively the Bank's.

What to consider?

- If the Bank holds real estate security and the finance amount is covered by this security consider whether they need to hold a GSA
- Split your Banking that enables a track record with another Bank

seek legal advice and advice from an insolvency practitioner if you require any further information regarding the above changes.

real estate security

- Is a self-liquidating facility, meaning that your business is not taking on any additional debt
- A stand-alone facility that can be separated from your other Bank borrowings and Bank security
- Fast access to your debtor's outstanding invoices – no more waiting 30, 60 or 90 days

How it works?

Debtor finance can be disclosed or undisclosed to your customers. You have the option to have a full ledger facility (where all invoices are subject to the debtor finance arrangement) or other arrangements where you only require a selective invoicing facility. So you can send through as many or a few invoices as you need.

Who would use Debtor Finance?

Any business may have a

- Move non-core banking away from your Bank.

Lending approach

Not everyone ticks all the boxes for lending from their Bank. If you have a unique business circumstance or assets that need to be financed you may need a financier that will be prepared to back the companies and directors track record and expertise. A better deal outside the box with another funder may be negotiated.

In addition your Bank may not have the products or require additional security where others do not.

What to consider?

- Approaching other funders who will assess the proposal differently.
- Talk to an experienced Commercial and Equipment Finance Broker. We have the expertise to be able to locate funders and

use for debtor finance. It can be particularly useful if you are in a growth phase or you debtors keep extending their payment terms to you. Because the invoices are used as the security by the financier the credit approval process is streamlined. This is because the financier looks at the strength of the debtor rather than you.

What percentage of the Debtors Invoice can be financed?

In some cases up to 90% of the approved value of invoices (subject to credit approval*) can be financed, less fees, within 24 hours of processing.

What security is generally required?

The financier uses the invoice as security. The financier will take a fixed charge over the Debtors of your business. In the majority of cases you do not need to provide any other form of security therefore keeping this security free for other uses (such as property).

understand how an application should be submitted to each particular funder

We have helped many companies split their banking or change banks. If we can assist with any aspect of the above please do not hesitate to contact us.

Please go to our get in touch with us to discuss how we can tailor the ideal debtor finance package for your business.

**All applications are subject to the credit approval criteria being met.*

DISCLAIMER: The information contained in this newsletter is of a general nature and does not take into consideration your own circumstances. It is recommended that seek your own independent advice. To the extent permitted by law neither Esdale Sinclair & Associates or any related party will be liable to anyone who relies on this information contained in this Newsletter. Articles contained in this newsletter are not to be construed as an offer of finance and all applications are subject to Credit Approval.

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