

# RESTRUCTURING GUIDE FOR CLIENTS

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When your small business faces financial challenges, make an informed decision with the expertise of Avante Partners.



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# Welcome

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## **Welcome to the Avante Partners Restructuring Guide!**

Thank you for engaging our firm to undertake a restructure for your business.

It is essential that you follow our guidance throughout this entire process to ensure you meet all your legal requirements under the Corporations Act and adhere to the insolvency legislation. Our comprehensive process will ensure this is the case if you follow our checklists and all our instructions.

We hope you find this eBook helpful but please note the limitations of this publication.

The purpose of our eBook is not to provide a definitive guide to cover every possible business scenario, particularly when a business is experiencing financial distress, legal actions, or facing some form of disruption to their operations.

It is simply not possible to provide a straightforward, definitive solution given every circumstance is different, so careful consideration must be given to the entire position of the business owner(s) when a plan is being formulated.

All our advisory staff are professional, qualified accountants who are members of either CA, IPA, or CPA (in some cases have even achieved Fellow status which is the highest form of membership for these organisations) with a strong background in this specific field.

Our firm is trusted by accountants, lawyers, and insolvency practitioners (i.e. liquidators/administrators). The vast majority of our clients are referred directly from these firms as they trust our firm to assist their clients and provide professional advice.

We wish you well and look forward to assisting you throughout the entire restructuring process.



# Introduction

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Every Australian dreams of building financial security for themselves and their family. Part of that pursuit can often include opening their own business.

## **However...**

From economic downturns to pandemics, businesses in Australia are often confronted with unprecedented obstacles that can threaten their very existence.

Although Australia is experiencing problems on the political and economic front in the post-pandemic climate (in what some people think is the “new normal”), not every business that was in healthy shape in the late 2010s may have weathered the uncertainty created by the events of 2020.

In the face of adversity, the strength of a business lies in its ability not only to survive but to thrive. If you and your operation have encountered some issues, some questions might arise, like:

- Can I still keep my company running?
- Do I have enough funds to pay my employees?
- Is there ample funding to make loan payments?
- Should I let some of my people go to save on cash?
- I am considering closing my business, but will it provide the best outcome for me?
- Can I reorganise or restructure my business?
- What risks am I bound to face and can I overcome them?
- How can I bounce back hard?

There's nothing to lose and everything to gain if you are able to answer the above questions and make it real.

## **Using this Guide**

This eBook serves as a roadmap divided into two phases:

### **Phase I - Reviewing your Situation**

### **Phase II - Weighing up the Available Options**

Both phases are important and must be given the utmost attention if your business can return to tiptop shape.

We at Avante Partners understand that a business disruption of any sort will be distressing to the owner and their staff. We will take on the rebound together to ensure you get the advice you need.

# Phase I: Reviewing Your Situation

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## 1.1 Reviewing your Business Situation

In times of disruption, a thorough assessment of the business's current state becomes the cornerstone for effective recovery. This phase necessitates a deep dive into various facets of the business to gain a comprehensive understanding of its standing amidst the challenges.

### Assessing Revenue Streams

Understanding the dynamics of revenue streams is pivotal. Start by analysing the sources of revenue, their stability, and their vulnerability to external shocks. Evaluate shifts in customer behaviour and market demand that might have affected your business bringing in revenue.

The level of revenue brought in will be an indicator of how things are actually going in your sector. A collation of industry data from [IBISWorld](#) revealed that Australia's state governments may have generated \$365.4m\* in revenues so far this year, with the finance and professional services industries at second and third place with \$360.6m\* and \$263.2m\* respectively.

### Examining Cash Flow

Cash flow forms the lifeblood of any business. Evaluate cash inflows and outflows meticulously. Identify any disruptions in cash inflow channels, such as delayed payments, reduced sales, or changes in financing availability.

### Evaluating Operational Viability

Examine the operational aspect of the business. Assess the efficiency of operations, potential bottlenecks, and adaptability to changing circumstances. Consider the impact of disruptions on supply chains, production capabilities, and workforce productivity.



## 1.2 Figuring your Level of Exposure

Evaluate key financial metrics such as total liabilities and use break even analysis to understand the financial exposure your business faces.

In times of disruption, understanding the financial vulnerabilities and exposures of your business is critical. This phase involves a meticulous evaluation of key financial metrics to gauge the extent of risk and exposure faced by the business.

### Total Liabilities Assessment

Assess the entirety of the business's liabilities, encompassing both short-term and long-term obligations. This includes debts, loans, payables, salaries, and operational expenses. Analyse the structure of liabilities and their maturity to identify any potential strain on cash flow.

Debts in each Australian business industry are worth looking into to get a grasp of the situation. [ABS data](#) from September 2023 noted that loan commitments in the construction sector for example as of that month dipped to \$2.238 billion \$2.244 billion the property market loans totaled \$5.607 billion, a steady rise from the \$5.189 billion logged in February 2023.

The potential for debt restructures may have some merit after checking the level of liability.

### Break Even Analysis

Let's look closer at the elements of a break even analysis:

- **Employees** - If you are forced to let go of some employees as part of a business recovery plan, you will need to cover their redundancy and other benefits.
- **Suppliers** - Break costs may come if you are forced to end agreements with a goods and services vendor after you buy a certain amount from them.
- **Contracts** - The contracts you enter will have associated break costs if you are forced to breach them. For a contractual agreement, that amounts to not committing to delivering any goods and services. Leasing contract breaks come if you decide to end the lease ahead of the period, whether or not you are making your payments on time.
- **The Bank** - The bank that provided you with a business loan will have you liable for breaching the terms if you do not repay on time.

Examine the cost implications associated with breaking contracts, leases, or agreements. If possible, assess any penalties or costs involved in terminating or renegotiating your contracts, considering the potential impact on cash flow and operational flexibility.

While nobody knows the ending of current economic situations you need to have a realistic forecast of your cash flow for the foreseeable future - say for six months then scale it to a year pending further improvement of your finances. This can include talking to your vendors to renegotiate any supply agreements before any payments are due.

# Phase II: Weighing Up the Available Options

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Once you have fully reviewed your business financial situation and mapped out a game plan (our firm can assist you in this task) to at least remain stable for further recovery, let's consider the options for your circumstances.

## **2.1 Applying for Tax Relief**

Amidst disruptions, exploring available tax relief measures becomes imperative for businesses in Australia, providing avenues to alleviate financial strains and enhance cash flow. If required, we can discuss this with your accountants to determine if any options are available to your business.

### **Understanding Government Support**

Engage with the Australian Taxation Office (ATO) to gain insights into tax relief initiatives tailored for businesses facing disruptions. Stay updated on announcements, grants, and tax incentives aimed at supporting affected industries.

### **Eligibility Criteria and Application Process**

Thoroughly review the eligibility criteria for tax relief programs such as applying for a formal payment arrangement. If approved by the ATO, ensure compliance with stipulated requirements and deadlines for application submissions and scheduled payments. We recommend you seek advice from your accountant if needed to navigate the complex application process effectively.







### Potential Relief Measures Available

- **Deferred Payments** - The ATO may allow business operators to defer payments on income tax, FBT, and excise taxes for a certain period of time (referred to as a 'formal payment arrangement' noted above). This is meant to give you enough space to build up enough money to pay off the arrears. An ATO officer may ask for other details or may decline any requests upon review of your circumstances.
- **Varied PAYG** - The Pay as you Go (PAYG) instalments for any fiscal year may need to be varied so your accountant is ideally placed to assist you in this regard.
- **GST Payment Cycle Switch** - Business operators needing faster processing of GST credits as part of the turnaround may ask the ATO to change reporting/payment cycles, subject to provisions. For example, if you voluntarily registered for GST but your turnover is under \$75k, you will be allowed an annual cycle - but you will be obligated to report every month if the turnover is above \$20m.
- **Penalty/Interest Remissions** - Business owners whose operations are in less than ideal conditions and are issued penalties or charged interest (referred to as GIC) for tax obligations may apply for a remission. However, the remissions process may be long and will hinge on proving your documented efforts to settle accounts.
- **Repayment of a Tax Loan** - The ATO may offer struggling small business operators a formal payment arrangement such that the debt attracts a zero interest rate, but it must be paid off over 12 months.

### Documenting and Reporting

Maintain meticulous records and documentation necessary for availing tax relief. Accurate reporting and documentation are vital to substantiate claims and comply with the requirements outlined by the ATO.

## 2.2 Lease Review and Renewal Negotiations

Amid economic uncertainties and disruptions, renegotiating lease agreements for premises stands as a crucial strategy for businesses in Australia to alleviate financial strain and secure more favourable terms related to rental expenses.

The post-pandemic climate also gave business owners a hard lesson in reorganising their operations, even if customer traffic is not as bustling as it used to be.

### Consider This Statistic

An August 2023 report by commercial lessors Ray White Commercial revealed that returns on investment for retail, office, or industrial properties were down on total percentages as of June 2023 from highs in 2021. Despite the decline, the industrials category still was on top with 6.9 per cent positive returns. Retail spaces are safe at 2.2 per cent - but office properties took a slightly painful jab at -2.2 per cent. The small numbers were attributed to more online retail activity and increased work-from-home solutions, which may impact business operators who took out a lease for a physical location.

### **Comprehensive Lease Evaluation**

Initiate a comprehensive evaluation of existing lease agreements, including terms, rental rates, escalation clauses, and any associated costs or penalties. Assess the lease duration, leasehold improvements, and clauses pertaining to lease termination or modification.

### **Identifying Potential Savings**

Identify areas within lease agreements where cost-saving opportunities exist. Analyse market trends and benchmark current lease rates against prevailing market rates. Explore potential negotiations based on changes in market dynamics and disruptions impacting property values or demand.

### **Open Dialogue with Landlords**

Initiate proactive discussions with landlords or lessor agents. Engage in open and transparent communication regarding the business's situation and the challenges faced due to disruptions. Propose feasible amendments or concessions that align with the current economic landscape.

### **Negotiation Strategies**

Craft negotiation strategies aimed at securing more favourable terms. This might include seeking rent reductions, rent abatements, lease term extensions, or adjustments to lease clauses to provide flexibility in case of unforeseen circumstances. We can introduce you to a firm that specialises in negotiating changes to existing lease agreements, renewal of lease agreements, or entering into new lease agreements. This firm [www.lease1.au](http://www.lease1.au) only acts for tenants and are experts in this field. We offer this introduction to our clients as purely a goodwill gesture as we do not receive any form of financial incentive, or any other type of incentive, from this firm.





## 2.3 Reviewing Insurance Policy

In the face of disruptions, a thorough review of existing insurance policies is pivotal for an Australian business struggling to recover. This phase aims to assess the adequacy of coverage options available to mitigate potential losses incurred during disruptive events.

### **Policy Assessment**

Conduct a comprehensive assessment of existing insurance policies, including coverage areas, exclusions, deductibles, and policy limits. Ensure that the policies align with the business's current needs and potential risks posed by disruptions.

### **Identifying Coverage Gaps**

Identify any gaps in coverage that might leave the business vulnerable to specific risks. Evaluate the need for additional coverage or endorsements to safeguard against disruptions such as business interruption, supply chain disruptions, or cyber threats.

### **Engage the Insurer**

Initiate dialogue with insurance providers to discuss policy amendments or enhancements. Inquire about options to tailor policies to better align with the evolving risks faced by the business due to disruptions.

### **Risk Mitigation**

Develop proactive risk mitigation plans based on insights gained from the insurance policy review. Identify preventive measures or risk management strategies that complement insurance coverage to minimise potential losses.

We can introduce you to a firm that is a specialist insurance broker if you require some assistance in this area. We offer this introduction to our clients as purely a goodwill gesture as we do not receive any form of financial incentive, or any other type of incentive, from this firm.

## 2.4 Limiting Overhead Expenses

Managing overhead expenses becomes imperative for businesses navigating through disruptions in Australia. This phase involves implementing strategic measures to reduce overhead costs without compromising essential operations or services.

### Cost Audit and Analysis

Conduct a thorough audit of overhead expenses across various operational areas, these will include utilities, rent, maintenance, administrative costs, and non-essential services.

### Cost-Cutting Strategies

Identify areas with potential for cost reduction or optimisation. You may need to renegotiate vendor contracts, consolidate services, tweak energy usage, and streamline administrative processes.

### Essential Expenses

Distinguish between essential and non-essential expenses. Prioritise spending on critical operational functions while scrutinising discretionary spending.

### Engaging Employees

Engage employees in cost-saving initiatives. Foster a culture of cost-consciousness and encourage suggestions for cost-saving measures from team members who are closest to operational processes.

## 2.5 Arranging for Asset Financing

Exploring asset financing options becomes a viable strategy for businesses seeking additional capital or liquidity during disruptions in Australia.

### Asset Evaluation

Evaluate existing assets owned by the business, including equipment, machinery, property, or inventory. Assess the liquidity potential and value of these assets.

### Financing Options

Explore asset-based financing options, such as asset-backed loans, sale-and-leaseback arrangements, or asset refinancing. Consider leveraging the equity tied up in assets to secure additional working capital.

We can introduce you to a firm that can provide assistance to you in this area. We offer this introduction to our clients as purely a goodwill gesture as we do not receive any form of financial incentive, or any other type of incentive, from this firm.

### Financial Analysis

Conduct a thorough financial analysis to determine the feasibility and impact of asset-based financing on the business's cash flow, debt servicing capabilities, and overall financial health.

## 2.6 Reconciling with Insolvency Laws

Familiarity with insolvency laws and regulations is crucial for businesses in Australia facing financial challenges, ensuring compliance while navigating through disruptions.

### Legal Understanding

We have a comprehensive understanding of insolvency laws, including the Corporations Act and relevant regulations. We stay updated on amendments or modifications in insolvency legislation.

### Compliance and Legal Obligations

Our firm provides you with advice and guidance to ensure compliance with statutory obligations and timelines outlined in insolvency laws. This involves timely reporting, maintaining accurate financial records, and adhering to prescribed procedures.

### Proactive Risk Mitigation

We apply our knowledge of insolvency laws to proactively assess and mitigate risks associated with potential insolvency, including protecting creditors' interests and exploring restructuring options where appropriate.

### Business Restructures

A legal restructuring, complying with all the necessary legislation, can be implemented with professional advice. We ensure that every part of the extensive restructuring process is completed legally so that when reviewed by external parties, it is fully compliant. As ASIC and the ATO have warned, you need to get this advice from qualified accounting professionals who specialise in this area. Our firm is trusted by accounting firms and law firms to manage these engagements on behalf of their clients.



