htlp.com.au

INSOLVENCY UPDATE

with ARITA's John Winter

COVID-19 PANDEMIC

At the start of the pandemic, the amount of companies entering insolvency significantly decreased.

Most expert pundits - *including David and John!* - predicted that pandemic was expected to cause a wave of insolvency.

This never eventuated.

WHY?

Statutory demands were largely suspended.

JobKeeper flooded the market with cash at the time it was needed most.

The ATO also stopped:

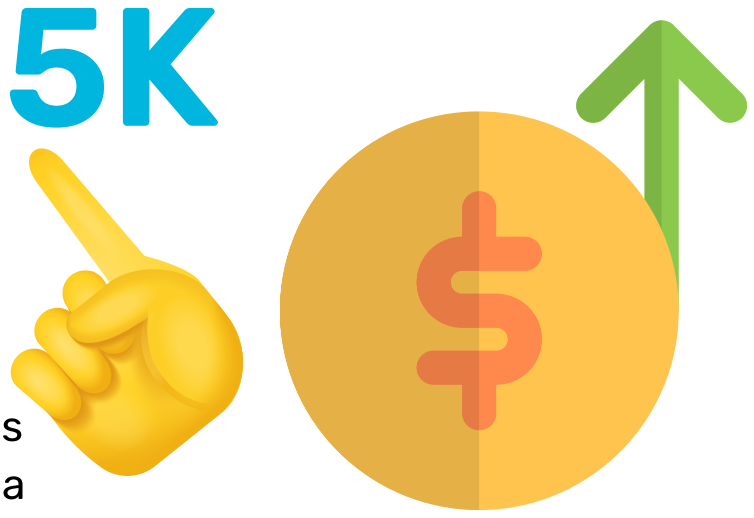
- Wind up operations.
- Issuing DPNs.
- Issuing warning letters.

PRE-COVID REFORMS

The *Business Set-up, Transfer and Closure Report* led to the eventual introduction of safe harbour laws, the prohibition of *ipso facto* clauses and the creation of director identification numbers. (DINs).

$20K-75K

The average cost of small business restructuring was meant to be less than $5,000. Instead...



The "simplified" liquidation process is more complex also costs more than a regular liquidation. *Rough.*

IF IT RESURRECTS LIKE A PHOENIX...

Phoenixing is difficult to define, however, it is the process where you take a distressed business, cast off the debts and restart that business, not having honoured the obligations that you have to your creditors.

THUS, JOHN SAYS...

"[If] it walks like a duck, it quacks like a duck, it's a duck."

OR

In the *Anti-Phoenixing Act* it is referred to as a *"creditor-defeating disposition"* and is a voidable transaction.