

# Case Example: How a Director Used Safe Harbour Protections During Financial Uncertainty

*A company loses 60 percent of its annual revenue in three months. The director knows the business has genuine recovery potential.*

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/EINPresswire.com/ -- A company loses 60 percent of its annual revenue in three months. The director knows the business has genuine recovery potential — but also knows that continuing to trade while potentially insolvent carries serious personal liability risk. It is precisely the kind of situation that the safe harbour regime was designed for. And it is a situation that more Australian directors are finding themselves in during 2026.

The following is a generalised illustrative case example. It does not represent a specific client engagement. Outcomes depend entirely on the circumstances of the individual situation, and nothing in this example constitutes a guarantee or prediction of any particular result.

ReStructure Partners helps Australian directors navigate every stage of ATO and financial distress, from overdue BAS and tax debt through to Director Penalty Notices, restructuring solutions, voluntary administration, and broader insolvency options. The firm advises directors on whether safe harbour protections may be available in their specific circumstances and what steps are required to establish and maintain a defensible position.

## The Background

In early 2024, the director of a small Sydney-based logistics business found himself navigating a period of acute financial uncertainty. The company had lost its two largest clients within a three-month period — one through a contract termination, one through the client's own financial



failure. Together, these clients had accounted for approximately 60 percent of the company's annual revenue.

The loss was sudden and unexpected, and the company's cost base — including fleet leases, driver wages, and fuel costs — was not structured to absorb a revenue reduction of that magnitude.

The director's dilemma was one that safe harbour is specifically designed to address. He believed the business had a realistic recovery prospect if it could secure replacement contracts. But he was aware that continuing to trade while potentially insolvent created [personal liability risk that could not be ignored](#).

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### Identifying the Safe Harbour Position

When the director consulted a restructuring adviser, the adviser assessed that safe harbour might be available in the circumstances.

The company's employee entitlements — including superannuation — were fully current. Tax lodgements were up to date, and while there was a modest outstanding ATO balance, the director had already made contact with the ATO, and a payment arrangement was in

place. This engagement with the ATO was an important element in establishing the safe harbour position.

The adviser worked with the director to develop and document a formal course of action: a written plan setting out the specific steps being taken to achieve a better outcome for the company than an immediate voluntary administration would produce. This included a targeted new business development strategy, a defined cost reduction program, and a financial model projecting cash flow implications under various contract scenarios.

The documentation of this plan was a critical element of the safe harbour position. The legislation requires that the director be taking a course of action that is reasonably likely to lead

to a better outcome — and a written, professionally supported plan provides important evidence that this requirement is being met.

Information on how safe harbour interacts with Director Penalty Notice risk is available at <https://restructurepartners.com.au/director-penalty-notice>.

## Managing the Recovery Period

Over the following months, the director implemented the plan with regular support and review from the restructuring adviser. At one point, the cash position deteriorated to a point at which the adviser recommended revising the plan — a new cost reduction measure was introduced and the financial model was updated to reflect changed circumstances. This ongoing review process was itself part of maintaining the safe harbour position.

Ultimately, in this illustrative example, the company secured two new contracts that collectively restored the majority of its lost revenue. By the end of the safe harbour period, the company had stabilised its cash position and was no longer at risk of insolvency. The director had navigated the most difficult period of the company's existence without incurring personal liability for insolvent trading.

## Key Takeaways for Directors

Safe harbour is a powerful tool, but it comes with important requirements. Directors who wish to rely on it must be actively meeting obligations in relation to employee entitlements and ATO compliance, must have a genuine and documented course of action aimed at achieving a better outcome, and must be receiving qualified advice throughout the process.

Safe harbour is not a self-executing protection — it requires active management and ongoing documentation. Directors who believe it may be relevant to their circumstances can access further information and guidance at <https://restructurepartners.com.au>.

ReStructure Partners works with Australian directors and business owners experiencing financial pressure, including ATO debt, cash flow issues, and creditor stress. The firm provides support across the full spectrum of financial distress, from early-stage tax arrears and compliance issues through to Director Penalty Notices, small business restructuring, voluntary administration, and other insolvency pathways, depending on the circumstances.

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