



If You Don't Pay the ATO

What happens, in what order, and where Resolve fits in



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What happens when ATO debt goes unpaid

Dear Director,

When ATO debt goes unpaid, the ATO doesn't move all at once -- they escalate, in stages, with more weight at every step.

Most directors and business owners only see the early letters and assume there's plenty of time. There isn't always. By the time firmer action lands, the cheaper, cleaner options have usually closed.

This is a plain-English map of the escalation ladder, what triggers each step, and where engaging early changes the whole shape of the conversation.

How the ATO escalates a debt

Broadly, the ATO moves through four stages -- and how soon they move depends on your engagement.

- Stage 1: Reminders, General Interest Charge, and offsetting against your refunds.
- Stage 2: Referral to an external debt collection agency.
- Stage 3: Firmer action -- garnishee notices, Director Penalty Notices, credit reporting, and other targeted actions.
- Stage 4: Legal action -- bankruptcy notices and creditor's petitions for individuals; statutory demands and wind-up applications for companies.

At every stage, engaging with the ATO -- even just to acknowledge the debt and discuss options -- changes how they treat you. Disengagement is what triggers escalation.

The reminder phase -- General Interest Charge and offsetting

When you don't pay on time, the ATO automatically adds a General Interest Charge (GIC) to what you owe. Interest compounds daily on the overdue amount and is updated quarterly.

GIC incurred on or after 1 July 2025 is no longer tax-deductible.

While the debt is outstanding, the ATO is legally required to use any tax refunds or credits you become entitled to in order to reduce the debt. This is called offsetting.

In limited circumstances they may not offset (for example, where you're experiencing serious hardship or have a payment plan with Services Australia). You can request a remission of GIC where there are extenuating circumstances that caused the delay.

External debt collectors -- recoveriescorp

If you've ignored requests to pay, the ATO may send a pre-referral warning letter, then refer the debt to an external debt collection agency. Since 29 January 2024, that's typically recoveriescorp.

They'll contact you by phone, email, SMS, or letter to request payment. If you're unsure whether contact is genuine, don't reply -- verify by phoning them directly:

- Individuals: 1300 323 495
- Registered tax professionals: 1300 352 593

Getting the debt off the external collection list usually means engaging directly with the ATO and putting a payment arrangement in place.

Garnishee notices

A garnishee notice requires a third party who holds money for you -- or owes you money -- to pay it directly to the ATO instead of to you.

For individuals, the ATO can garnishee:

- Banks, financial institutions, and building societies.
- Employers (typically up to 30 cents in the dollar of post-tax income).
- Purchasers, real estate agents, or solicitors involved in a property sale.

For businesses, the ATO can garnishee:

- Bank accounts (up to the available balance or the overdue debt, whichever is less).
- Trade debtors.
- Merchant card facilities (a percentage of EFTPOS or credit card processing).
- Solicitors or receivers holding trust monies.

You get a copy of the notice. Once it's issued, the third party is legally required to comply. If you receive one, contact the ATO immediately -- a garnishee can be varied or withdrawn if you put a suitable alternative in place.

Director Penalty Notices

If your company has unpaid PAYG withholding, GST, or Super Guarantee Charge, the ATO can issue a Director Penalty Notice (DPN) -- making you, as a director, personally liable for those amounts.

The 21-day clock on a DPN starts the day the ATO posts it to your ASIC-registered address. Whether the notice is lockdown (BAS not lodged within 3 months) or non-lockdown (lodged within 3 months) decides whether liquidation can remit the penalty -- or whether personal liability is already locked in.

DPNs are a deep topic on their own. The dedicated 'Director Penalty Notices' explainer covers lockdown vs non-lockdown, remission, and defences in full.

Credit Reporting Bureau disclosure

If your business has overdue tax debts of \$100,000 or more that are at least 90 days overdue and you're not engaging with the ATO, your debt may be reported to credit reporting bureaus (CRBs).

Before reporting, the ATO sends a Notice of intent to disclose -- you have 28 days to take action.

Reportable debts are removed from CRB records once you pay in full or effectively engage.

Effective engagement includes:

- A payment plan you're complying with.
- An active objection or review.
- An application for release from the debt.
- An active complaint with the Tax Ombudsman.

The practical effect: a reported debt can knock your business credit score and affect lending, supplier credit, and contracts. Engaging early avoids it entirely.

Other firmer actions

Beyond garnishees, DPNs, and CRB disclosure, the ATO has several less common but more pointed actions:

Direction to pay Super Guarantee Charge -- the ATO can direct an employer to pay overdue SGC within a specified period. Failure to comply is a criminal offence and can result in penalties or imprisonment.

Departure prohibition order -- prevents a taxpayer with tax debts from leaving Australia until the debt is paid or a satisfactory arrangement is made.

Freezing orders -- the ATO can apply to the Supreme Court or Federal Court to temporarily prevent a taxpayer (or third parties) from disposing of assets where there's evidence assets may be moved to avoid payment. Can apply to assets in Australia or internationally.

Securities -- the ATO can require security where they believe the business is being run for a limited time only or where security is otherwise reasonably appropriate.

These aren't day-one actions, but if the ATO believes assets are being moved or someone is preparing to leave the country, they move quickly.

Legal action against individuals

If firmer action doesn't resolve the debt and you remain disengaged, the ATO can move to legal action.

Statement of claim or summons:

Filed in the relevant state or territory court. Once the court recognises the debt, the ATO can execute on the judgment debt -- including filing a bankruptcy notice. Court-imposed interest on the judgment is not tax deductible.

Bankruptcy notice:

A bankruptcy notice gives you 21 days to pay the debt or put a payment plan in place. Failing to comply is an act of bankruptcy.

Creditor's petition:

If you don't comply with the bankruptcy notice, the ATO can file a creditor's petition asking the Federal Court (or Federal Circuit and Family Court) for a sequestration order to declare you bankrupt. If granted, a trustee is appointed and your assets are typically sold to pay creditors.

The court won't issue the order if you can demonstrate you can immediately pay all your debts. The ATO has stated it won't pursue bankruptcy where it's clear you can pay your debts in a reasonable time.

Legal action against companies

Statutory demand:

The ATO can issue a statutory demand requiring the company to pay the entire debt -- or enter into a payment plan -- within 21 days. Non-compliance is presumed evidence the company is insolvent.

Wind-up application:

If the statutory demand is ignored, the ATO can apply to the Federal Court to wind up the company. A liquidator is appointed, the company's assets are sold, and proceeds distributed to creditors.

The ATO will move to wind-up where:

- The company has failed to pay its debts.
- A suitable payment plan couldn't be negotiated.

A statutory demand is the last warning shot before the doors close. By the time one lands, the operating window for restructuring (SBR, VA) is measured in days.

What this looks like in practice

Three patterns we see again and again:

1. Engaging early, with a credible plan, almost always avoids firmer action.

A payment plan, a Small Business Restructure, or a negotiated compromise is far cheaper than a garnishee, a DPN, or a wind-up application.

2. Disengagement is what accelerates everything.

The ATO escalates faster against businesses that ignore letters, default on plans, or appear to be deliberately avoiding payment.

3. Each stage closes options at the next.

By the time a statutory demand lands, SBR is largely off the table. By the time a creditor's petition is filed, a Part X needs to be done in a hurry. Engaging two stages earlier opens up paths that would otherwise be gone.

The Nature of Our Role

Resolve provides administrative support, coordination, and acts as your point of contact. We are not licensed to provide financial, legal, or investment advice -- where that's needed for your matter, we coordinate the right specialist practitioners (accountants, solicitors, registered liquidators, trustees) around you.

That way you get the experience and firepower of a full team -- with us holding the whole picture together so nothing falls through the cracks.

The ATO doesn't escalate randomly. They escalate against businesses that disengage. Pick up the phone before the next letter arrives, and you change the whole shape of the conversation.

— Resolve Business Solutions -- Over 35 Years Helping Australians Through Financial Distress

Next Steps

Director, if the ATO is closing in -- letters, a payment plan default, a notice of intent, or a director penalty -- the earliest point in the ladder you engage is the cheapest and cleanest place to land.

Whenever you're ready, you can:

- Reply to this email
- Call us directly on 0499 499 899
- Email us at advisor@resolve.net.au

We'd rather have the conversation now than after a garnishee or a wind-up application changes the field.