tph ADVISORY


SMART INSOLVENCY SOLUTIONS

# DEAL WITH DIRECTOR DEBIT LOAN ACCOUNTS

## The tph Difference

Director debit loan accounts are usually the result of how payments to directors are treated when the payment is not included in the wages of shown by the company. If a director pays themselves but does not declare the payments as wages then when a Liquidator is appointed it will be recorded in the company's balance sheet as a loan the director should repay to the company.

It is up to a Liquidator to decide whether a claim for repayment is made against the director. Again, this usually revolves around the evidence backing up the loan account, the director's known financial circumstances, the cost to run the action and whether creditors want the Liquidator to use the 'kitty' to pursue the director.

**tph** applies its usual standard rules and does not commence actions unless all the criteria are met. **tph** does not run actions against parties simply to meet its outstanding fees.

## Common Alternative Approaches adopted by Insolvency Firms

Many Liquidators will try and run an action to secure a commercial result and this usually goes towards the lawyers and the Liquidators fees.

This approach varies between practitioners, however the more litigious a Liquidator, the more likely it is that an action will be commenced or demands made for the recovery of the figure represented in the balance sheet.

**tph** requires substantial evidence with things like loan agreements appropriately executed before considering pursuing a claim. Once relevant evidence is apparent the usual guidelines, such as creditors support, litigation funding and a positive view of the director's personal wealth are considered before embarking on a claim.

Directors should specifically ask potential Liquidators how they will treat the debit loan account. If the answer is unclear the director should consider an alternative Liquidator.


## The tph Smart Solution

Any business that is considering appointing an Insolvency firm to liquidate a company should ask how director loan accounts will be treated and get a clear strategy. **tph** will collect the facts and always remain transparent so that there are no surprises once appointed.

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