

## CHOOSING THE RIGHT EXECUTOR

Often a family business is operated as a company or with a combined company and trust structure. This is done sometimes for tax effectiveness and/or to limit the liability of those involved in running the business. This is because the company is a separate legal entity from the individuals who actually make the decisions and carry out actions on behalf of the company.

In some circumstances the Directors and/or officeholders of a company might be found liable for actions of the company and the debts or liabilities arising from those actions. However, liability for the company's activities would not extend beyond the Directors and/or officeholders of the company unless a guarantee had been provided by a shareholder to satisfy a lender's requirements in relation to a loan to the company or to guarantee the company's performance of its obligations under a contract.

Provided your spouse is not involved in the running of the business as a Director or Officeholder and provided your spouse has not otherwise provided a guarantee in relation to the company's activities and/or mortgaged the house as part of the obligations under the guarantee or separately to secure benefits to the company then there should not be a claim against your spouse for any liability of the company and your house should be safe.

There are some technicalities that may come into play in regards to how your spouse came to have the money to purchase the house if your spouse is not the primary income earner and whether you as a Director are indeed a "notional" owner if you have generated all or a substantial amount of the income. Consequently, you need to ensure you receive specific advice relevant for your individual circumstances.

**Contact CB Financial on 07 3223 6000 or [service@cbfinancial.com.au](mailto:service@cbfinancial.com.au) to obtain expert & friendly advice.**

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