

NO CHANGE TO THE ECONOMIC CLIMATE

With the year half way through we are not seeing any improvement to the economy. Companies, particularly manufacturing, are beginning to lay off staff or are having staff use their holidays in an effort to reduce operational costs while they wait for the markets to adjust.

We are constantly told that "business must be booming for us in this climate", but it is far from it. It often takes a downturn in the economy as we are currently experiencing, for companies to take a good look at what they are doing in the credit department. We are finding there is more time for the credit team to collect those overdue accounts, but they are also not being as quick to jump into risky credit situations by assessing their potential customers risk better.

Recovering outstanding accounts is probably three times harder than it was last year when the recession first hit and we don't see any light at the end of tunnel yet. A long term view is that this is a good time to check your in-house credit systems and perhaps take the opportunity to change some of the company policies while staff see the logic for doing so, particularly where sales staff often override credit department priorities or similar problems that pose any sort risk to the company and its survival.

Now is the time to retain the customers the business has worked hard to win. This will mean a hands on approach to work with those customers that are finding it difficult to make payment in full or on time. Stress to these people that they contact you and let you know what their circumstances are and how it can be worked through. This will enhance the customer relationship not damage it and will build a valuable loyal customer, as well as giving you a better idea about their business, after all they need to survive for your business to survive.

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Don't write off debts you believe are too small to chase

Many clients simply write off debts that they believe to be too small to chase, but over time these amounts do mount up and it can often be quite a shock at the end of the year when the write off is reviewed at the time the yearly accounts are completed for the business.

By writing these debts off you are often sending a message to your customers that any amount under \$100 for instance, is not pursued by the business, leaving it open for this policy to be exploited by the unscrupulous.

These debts should at least be listed in the debt database to warn others, so do send these in for collection. Often a letter or contact from our staff at DebtForce can have the offending party reconsider the seriousness of non-payment.

It is better to have 75% of something than 100% of nothing and after all we do the work for you.

You don't have to use the labels if you do not wish to, but you can just use the service, and these labels have been reduced in price to \$5.00 per 27 labels.

Any DebtForce client can sign up to the Label & Letter service and it is simply a matter of using the label & letter debt instruction form. By using this service you do not pay a minimum fee for each debt sent in, so there is a saving of the \$45.00 closed file fee that applies in the Debt Action service. You do pay a higher commission if payment is achieved but there is absolutely no cost unless we are successful.

The Label and Letter application form can be found on our website www.debtforce.co.nz



TRANS-TASMAN LEGAL CHANGES To be implemented

In July last year, Ministers from New Zealand and Australia signed a trans-Tasman Court Proceedings and Regulatory Enforcement Treaty, which could see changes to present trans-Tasman legal arrangements being introduced into both countries, later this year.

The expanding of these trans-Tasman legal arrangements will allow for civil proceedings from a court in one country to be served in the other, without additional legal requirements that are currently experienced.

The agreement would extend the range of civil court judgments that can be enforced in Australia, with judgments being refused enforcement only if there is a conflict with the present public policy in the country of enforcement.

In addition it will allow trans-Tasman enforcement of fines for certain regulatory offences where there is a strong mutual interest in doing so. This will allow enforcement of civil penalty orders which could be extended to tribunals on a case by case basis.

It does appear that international law on cross border insolvency is also being seriously looked at, to no longer allow persons leaving the country, leaving creditors without economic legal recourse.

Some of these arrangements are likely to include extending the regime to criminal and family proceedings allowing for judges of a lower court, ie: from High to District

court, to grant leave to issue a trans-Tasman subpoena in proceedings before that court.

These changes should alleviate some of the court workload as they would not longer have to deal with the complexities of at-

tempting to get enforcement orders which previously had been extremely costly and still difficult to enforce.

If you would like to review the likely changes in more detail the proposals can be found at;
www.justice.govt.nz/pubs/reports/2006/trans-tasman-working-group-report/index.html



Preparing Your Legal Case Good evidence essential

When the collection process has failed and a debtor is forcing you to consider your legal options and remedies, the available evidence must be taken into consideration as part of the equation.

Court proceedings are always expensive and it does not necessarily guarantee the outcome one would like. Much depends on the strength of the evidence submitted being persuasive and logical and of a high standard, so a court is not required to review irrelevant information. Consideration of the available evidence and or likely witnesses gives the opportunity to expose any weaknesses in a clients case and whether it is possible to address those issues successfully in a court action. There is no point in proceeding into a court situation without a very strong case as a successful defended action could also have the repercussions of you paying some of the former debtors legal fees adding insult to injury.

Commencing legal proceedings early will ensure possible witnesses are available and important facts are remembered at the time to support any case submitted. Any evidence provided should include all documentation, even where errors have been made to enable the case to be prepared carefully. The evidence held by the client is paramount and should be given considerable protection, as it will become evident at the end of the day that evidence may not be limited to an account sent to a debtor, but could include salesman's notes, emails, credit notes, and a summary of other issues, should it be necessary.

There are several steps to achieving a final court decision. Once proceedings have been issued and served on other parties a pre-trial settlement conference would occur, enabling each side to again reassess their position. This can sometimes result in settlement prior to any court hearing which naturally will save considerable costs. A well prepared brief of evidence at one of these settlement conferences can be a powerful tool in obtaining settlement to the satisfaction of the client without having to proceed in to a full hearing and incurring those additional costs along with a defended action as a result of weak evidence.

In summary, it is important any potential legal situation is recognised early and the appropriate records are kept at the outset in preparation of an anticipated court hearing. If this was made a policy of the department even if staff left the information would still be available.

A man who was driving a car with his wife was stopped by the police
The following exchange took place.
The man says, "What's the problem, officer?"
Officer: "You were going at least 75 in a 55 zone."
Man: "No sir, I was going 65."
Wife: "Oh, Harry. You were going 80."
(The man gave his wife a dirty look.)
Officer: "I'm also going to give you a ticket for your broken taillight."
Man: "Broken taillight? I didn't know about a broken taillight!"
Wife: "Oh Harry, you've known about that taillight for weeks."

The man gave his wife another dirty look.)
Officer: "I'm also going to give you a citation for not wearing your seat belt."
Man: "Oh, I just took it off when you were walking up to the car."
Wife: "Oh Harry, you never wear your seat belt."
The man turned to his wife and yelled, "SHUT YOUR MOUTH!"
The officer turned to the woman and asked,
"Ma'am, does your husband talk to you this way all the time?"
The wife said, "No, only when he's drunk."

