

Schedule "A"

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### **Drought and tax sink mid-tier firm**

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The taxman has claimed a major scalp in his bid to crack down on unpaid tax in the legal profession.

A mid-tier national law firm under pressure from the drought went into voluntary administration this week after the Australian Tax Office hit the firm and its managing partner with a \$750,000 demand.

Neil Cussen from Deloitte was appointed administrator of McMahons National Lawyers on Tuesday after the firm's managing partner, Gerard McMahon went into bankruptcy.

It is understood the firm's major creditors include its current and former staff – as a result of unpaid superannuation – and a number of recruitment firms around Sydney.

On the day the firm went into administration and Mr. McMahon went into bankruptcy, a number of senior staff had been due to find out what bonuses they would get this year.

That same day, Mr. McMahon and another partner at the firm Linda Charleston, established a new law firm, McMahon Charleston Lawyers, just blocks away from their existing office where the old firm was placed in administration.

Mr McMahon said the firm had done too much work for clients who had been unable or unwilling to pay. "This is despite my continuous exhortations to the contrary." He said. "Myself and MNL are owed almost \$2 million in outstanding fees. A substantial amount of this is owed by financially distressed rural clients (about \$500,00) for whom the firm been undertaking financial structuring. All tax owing is in respect of business taxes owed by the firm. There is currently a payment plan in place with the ATO in respect of these taxes which until weeks ago was up to date. However, I am personally liable for the debts of the firm."

Mr. McMahon said if there were any bonuses due, there would be sufficient funds available for them and "all other employee entitlements including long service leave".

McMahons. Which incorporated on July 1 this year, has offices in Sydney, Melbourne and Brisbane.

The administration poses a major challenge for corporate and legal regulators because McMahons is one of the first Australian firms to go into administration and there is no precedent for how it should be conducted, particularly around the issues of handling of client files.

Until now, law firms had been unincorporated partnerships and not subject to the provisions of the Corporations Act when winding up.

As a result of the uncertainty, Mr. Cussen has also sought approval from the NSW Law Society to be appointed receiver of the old firm, which ceased operation on June 30.

It is understood that the tax bill for the firm is about \$780,000. There is no suggestion any client money has been affected.

McMahons has about 70 staff and six partners. Although a number of others have recently left the firm. Most of the equity in the firm is held by Mr. McMahon but, as a result of the firm's business structure, senior lawyers at the firm act almost independently. As a result, it is understood staff only became aware of the financial problems of the firm and Mr. McMahon on Tuesday.

Since then senior lawyers at the firm have been talking to the administrator about taking over the firm under a new name.

McMahons is not the only Sydney firm to be hit with a big tax bill.

Legal practice rules will mean that solicitors and barristers declaring bankruptcy could lose their practising certificates. Furthermore, proposed new bankruptcy laws will make it easier to claw back assets transferred to third parties.

#### KEY POINTS

McMahon National Lawyers went into voluntary administration after a \$750,000 claim against the firm and its managing partner.

The firm had been incorporated under corporations law reform.

The administration will be a test of how to handle client files.