

# The biggest bird threatening your crops: the phoenix

Beware of phoenix operators

The Australian Taxation Office (ATO) and other law enforcement agencies are warning Australian growers about illegal phoenix companies.

The phrase is borrowed from mythology and describes a bird which erupts into flame when it dies, only to arise from the ashes. It's an apt description for a phoenix company which systematically accrues debts only to deliberately liquidate to avoid paying them. The company then sets up shop again under a new name—completely debt free.

Companies who engage in this behaviour do so to evade tax, debts to suppliers, clients, employers, and other businesses. This behaviour allows them to undercut honest competition and destroy livelihoods.

The practice has a profound effect on the local and national economy and is particularly prevalent in the labour hire industry. Since most growers use labour hire companies, this means they are exposed to the impact of illegal phoenix behaviour.

Phoenix companies aren't just about 'hiding a bit from the taxman'. They are often involved in exploitation of staff through underpayment of wages and super and pressuring employees to accept unsafe working practices.

The multi-agency Phoenix Taskforce, headed by the ATO, was formed to enable a whole-of-government approach to wiping out phoenix behaviour, by sharing information and strengthening connections to identify phoenix operators and take action against perpetrators.

It's not just employees and creditors who have to worry. Growers engaged with a phoenix operator to supply labour are at serious risk of being held liable for a phoenix operator's debts and could face civil and criminal sanctions.

The consequences include:

- fines of up to \$63,000 for individuals and \$315,000 for businesses;
- liability for an employee injured on your workplace where the labour hire company does not have insurance;
- liability for premiums the labour hire business has failed to pay; and
- liability for foreign workers breaching visa conditions - potentially resulting in up to five years' imprisonment.

There are plenty of signs which point to the possibility of dealing with a phoenix operator:

- they are able to significantly underquote compared to similar businesses;
- the company requests payment to a new company;
- the directors may have been involved with other liquidated entities; and

- the company directors and the name of the company may change, but staff, managers, and phone numbers remain the same.

These are some things growers should be doing to protect themselves, and their businesses from being caught up in this illegal behaviour:

- ask for proof the company is registered;
- checking if directors or the people in control have ever been bankrupt;
- keep records of all contract workers, as well as their visa details; and
- ask for proof of superannuation fund registration and copies of their WorkCover or Insurance Certificate of Currency.

If you suspect you are involved with a phoenix company, you can lodge a report through the Tax Evasion Reporting Form on the ATO's website or by visiting [ato.gov.au/phoenix](http://ato.gov.au/phoenix)



**Australian Government**  
**Australian Taxation Office**

You can also contact us on **13 28 66** or visit [ato.gov.au/reportevasion](http://ato.gov.au/reportevasion)

Report illegal phoenix behaviour  
[www.fairwork.gov.au/tipoff](http://www.fairwork.gov.au/tipoff)