
The Clock is Ticking....

Date : November 19, 2018

By Renee Smith a Solicitor of Matthews Folbigg, in our Insolvency, Restructuring and Debt Recovery Group.

The time that is available to recover a debt from a debtor is not infinite. Each State and Territory in Australia has set limitation periods that restrict the time available to a creditor to recover a debt.

In relation to simple contract debts (which can include unsecured personal loans, personal guarantee claims, and credit card debts) all States and Territories (except the Northern Territory, where the period is 3 years), have a limitation period of 6 years from the date on which the 'right of action' accrued. For Court judgments, all States and Territories (except Victoria, where the period is 15 years), have a limitation period of 12 years from the date of judgment to enforce that judgment.

After the limitation period expires, the debts are known as '*statute-barred debts*'. In all States and Territories, except New South Wales, '*statute-barred debts*' will still be owing to the creditor, however legislation limits the enforcement options that are available. In New South Wales, once the limitation period has expired, the legislation (s63 of the *Limitation Act 1969 (NSW)*) specifically extinguishes the cause of action, in a sense erasing the debt, therefore giving no further options to creditors of enforcement.

It is therefore important to know which State or Territories legislation applies to your debt in order to make sure the correct limitation period is calculated and your enforcement options are not limited or lost.

If you are interested in knowing more about the limitation periods in relation to debts or require assistance in relation to enforcement of a debt owing to you, contact a Principal of the Matthews Folbigg Insolvency, Restructuring & Debt Recovery Group:

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