



ESS AccountantsMinute

Welcome to Accountants Minute. I'm Peter Towers, managing director of ESS BIZTOOLS.

Understanding incidents relating to insolvency practitioners, the Personal Property Securities Act (PPSA) and the Personal Property Securities Register (PPSR) will assist accountants in their services to businesses.

There's been a steady flow of incidents, which relates to 'insolvency events', the PPSA and the PPSR, including:

- Inventory supplied to stores seized by a liquidator because registration hadn't been lodged on the PPSR.
- Heavy earthmoving equipment, owned by one company in the group, hired to another company in the group (which had borrowed money), which had a liquidator appointed. With no registration on the PPSR, the liquidator was able to seize the earthmoving equipment and sell for the benefit of the secured creditor.
- Water tanker on dry hire to a mining company where the owner failed to register on the PPSR – liquidator appointed to the mining company and sold the water tanker for the benefit of the secured creditor. Original owner was left with no asset and still has debt to the bank.
- Cabinet making business hired a number of kitchen suites to a display home developer. A liquidator was appointed and preferential payments of \$172,000 were alleged. The cabinet maker was unable to pay, therefore, the business was forced to close.
- Cleaning equipment and product supplied, however, owner didn't 'perfect' their interest by virtue of 'Retention of Title', as part of the 'security interest' registration. The liquidator was able to claim all of the assets.
- The hire of trucks and trailers for more than one year is deemed to be a PPS Lease. A PPS Lease is required to be registered on the PPSR. The owner of the trucks and trailers had not done so. The liquidator, who was appointed, was able to seize trucks and trailers and sold for the benefit of the secured creditor.
- Where there's no formal agreement provided for 'ongoing supplies' in the 'Terms of Trade' agreement, generally, each supply must be considered to be a separate contract for the security agreement and separate registration made for each supply. This highlights the need for well-drafted 'Terms of Trade' agreements
- Liquidators/administrators have pursued many preferential payment claims against owners of assets who are not registered on the PPSR.

This selection of incidents that have already occurred highlight significant problems that the PPSA and the PPSR have caused to businesses. You wouldn't want one of your clients to be going through these problems, would you?

ESS BIZTOOLS has developed Personal Property Securities Register Due Diligence System, to assist accountants, auditors and advisers to undertake a review for their clients.

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