



Personal Property Securities Register - Are Your Clients Protected?

Hello, I'm Peter Towers, Managing Director of ESS BIZTOOLS. Welcome to Accountants Minute.

Risk management is an accepted subject for accountants to enquire about with your clients relative to covers, policies that have been enacted etc. This can cover items such as:

- insurance,
- business risks;
- looking at commercial compliance
- legal
- environmental
- corporate governance

and at least another half a dozen risks that affects businesses.

Most accountants do make enquiries of their clients about the strategies that have been implemented to protect the business from problems in these risks.

Since January 2012, another very large risk area has emerged for businesses and it is known as the Personal Property Securities Register. This is a significant risk to businesses both large and small as the Court cases and the out of Court settlements since 2012 have indicated. Already at least \$300M has been lost by Australian businesses, basically through one thing – they failed to register their customers or their business transactions and agreements on a Government register and that has cost a significant number of businesses a lot of money.

“Personal property” is all forms of property other than real estate. This is a vast range of “business property”. Why the Government elected to call this legislation “personal property” no-one knows but it definitely covers every type of “business property” excluding real estate.

So the key considerations for you to be thinking about include:

- Have your clients consulted a commercial solicitor since January 2012 and had new Terms of Trade Agreements prepared and have they had new Retention of Title Agreements prepared?
- Are you clients using them?
- Are they following up?
- Are they registering the transactions that could cause them financial grief?
- If they are involved in leasing, do they understand the consequences of an “indefinite period lease” or a “lease up to one year that is automatically renewable” or a “lease for a term in excess of one year”? To protect themselves relative to the assets that are being leased, they probably should have registered those lease transactions on the Personal Property Securities Register.

But there is more – the important questions that need to be answered are “Where are assets located?” If they are on the company's or business' own premises there is virtually no issue but if they are in leased premises on someone else's property or on consignment then if an insolvency or bankruptcy event occurs relative to the owner of those premises or a customer then your client can be in financial difficulties.

You won't want your client to be coming into your office this morning and telling you that they had half a million dollars worth of stock on consignment to XYZ and overnight XYZ have a liquidator appointed would you? Because your client has probably lost that asset!

What is included in "business property"? Well it is everything besides real estate, so that covers stock, livestock and crops, goods – things like attachments to goods, mixed goods, goods for growing crops and be protected, artist's works, plant and equipment, construction equipment, motor vehicles, boats, aircraft – anything with a serial number on it, debtors and one of the big issues relative to debtors is Unfair Preference Claims being issued by liquidators.

Yes – your clients can basically be protected from those claims, if they have registered that customer on the Personal Property Securities Register.

I believe that the Personal Property Securities Register annual review **IS A MUST** for any commercial business that you have as clients. Indicate to the clients what the problems are – we have articles that you can supply to your clients to emphasis to them the real commercial risks that they are encountering by not paying a very small premium – the cheapest insurance possibly in the World about \$6 for a seven year protection.

Personal Property Securities Register annual reviews are very important, please undertake them.

This is good for your clients, it helps them protect assets and also it is good for accountants as you think about where new income streams are going to come from – well this is one. Undertake a Personal Property Securities Register review for your clients and then it could lead into a Debtors review because obviously debtors is one of the major areas of potential concern.

Attached to this material is an article on the Personal Property Securities Register Operational Issues in Risk Management (Paper 051-010).

If you would like any more details about the services that ESS BIZTOOLS can offer, please go to our website, www.essbiztools.com.au or if you are interested in an individual product subscription you can go to our other website – www.essbasip.com.au.

Have a wonderful day!

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