

Business Matters



The Personal Properties Securities Act

Are you aware of the Personal Property Securities Act “PPSA” which came into force on 1 May 2002?

This Act reforms the law relating to security interests in personal property. It affects lending, leasing and other types of credit-providing activities. The PPSA contains rules for determining the priority between security interests in the same personal property. Personal property is given a wide definition by the PPSA. With few exceptions it covers any property someone can own **other than land**. It can also change the order of priority of secured creditors and the rights of suppliers of stock and equipment in the event of a liquidation or receivership.

Romalpa Clauses no longer sufficient

In the past clients have commonly issued terms of trade which provide for reservation of title in goods they have sold until such time as the goods have been paid for. In the event of liquidation or non-payment, the clients have simply uplifted their goods or stock. It is clear that if they have not registered their security interest on the Personal Property Securities Register, those goods in the event of receivership or liquidation may not come back to them, but will be available for a debentureholder or someone else with a security interest in those goods. Even worse, if they happen to uplift “their” goods prior to receivership or liquidation those goods may still be available to any debentureholder.

Consigned Goods may be lost

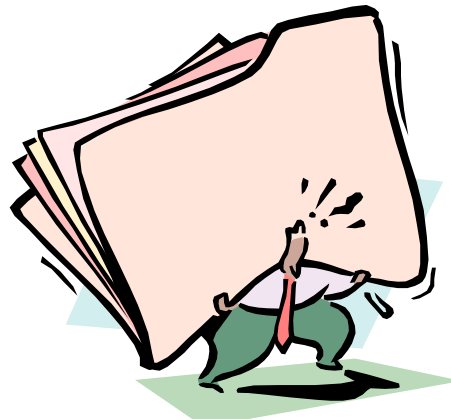
In the past consigned goods were never the property of the consignee. In law and in practice, the consignor could uplift the goods whenever he/she wished. Such is no longer the case. If you have not registered your interest in the goods on the Personal Property Security register then the

goods may be taken by the registered debentureholder. In the event of receivership or liquidation of the consignee the consignor may lose his goods. This can happen even though the goods are uplifted prior to the receivership or liquidation.

Private Debentureholders - Beware

Private debentureholders have to be particularly aware that the old rules no longer apply. In the past the first debenture to be executed ranked first

unless specific accommodation had been given to a subsequent debentureholder. The date of execution of a debenture is now irrelevant when working out priorities. What matters now is the date of registration on the Personal Property Securities Register. The first debenture to be registered ranks first.



Leased Goods – Deemed Security Interests

Clients who lease goods should know that where a lease is for a term greater than one year the lessor must register his interest in the goods.

Unless he does so, his goods may come under the charge of any debenture. Again, in the event of receivership or liquidation the lessor stands to lose his goods.

This can happen even though the leased goods were uplifted prior to receivership or liquidation.

It is very important that you get the proper advice if you are lending money or goods to third parties and especially if advancing funds to your own company.

Article written by: Victoria Toon, a Senior Associate at McDonald Vague.

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Four Key Tools For Managers

The new financial year came with a rush. Like many businesses, much of your focus is likely to have been around tying off 31 March accounts and seeing how everything finished up. While this is important, don't let the year continue on without having all of your financial management tools in place. There are four things every business should have:

1. An operating budget;
2. A capital expenditure budget;
3. A cash flow budget; and
4. Your KPIs for the year.

Operating budget

You need to know what the year is going to look like. How much profit you will make, when you will be making your profit and how your income and expenses are likely to move about. Without this you will be under prepared for the year and need to manage by gut instinct or reaction to events as they occur. Get your budgets in place and then you can track performance against expectation.

Capital expenditure budget

This is about understanding and identifying how much you are likely to need for capital purchases throughout the year. This might be replacements or new plant or equipment required because of business growth or change. Most businesses have capital expenditure requirements but many don't plan for them. When they occur they can disrupt your cash flow. Plan ahead. They are an essential part of your cash flow budget.

Cash flow budget

You absolutely need this. As the saying goes 'Cash is King'. Your cash flow budget needs to flow on from your operating and capital expenditure budgets. You need to forecast the timing of money flowing in and out of the business. Make sure you include things like tax payments, loan repayments and dividends. And, plan around the cycles that can occur. If you are going to be tight for cash at some time in the year, talk to your bank early. If you would like a copy of our 'Where's the cash' article written for the Westpac Bank please contact us or visit our website.

KPIs (Key Performance Indicators)

These are a great way to manage the business. What are the key indicators that show your business is on track? It might be the number of enquiries, machine hours, on time delivery, customer complaints, or staff turnover. For most businesses you can measure performance around six KPIs. They are the key influencers of your business's operating performance and should be capable of being easily tracked and managed. If you haven't used them before give it a try.

For assistance to get your business running at its strategic best this financial year, talk to us to arrange a meeting to work with you on your businesses budget and KPI planning. It not to late to put in budgets for the latter 1/2 of this financial year and to also be preparing budgets and cashflows for next year, also if you would like to consider some 'what if' scenarios please contact us.

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