



Welcome to the September 2017 alert from ESS BIZTOOLS, ESS BIZGRANTS and ESS BASIP.

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A. Personal Property Securities Register – Preferential Payment Claims Causing Headaches!

Recent publicity in Queensland has identified the ongoing risk that many contractors have if they have not registered their customers (even when they are major builders) on the Personal Property Securities Register.

If the customer is not registered, then the contractor has no protection against a claim from a liquidator of an alleged preferential payment and the customer runs the real risk of liquidators "clawing back" payments made to the contractor in the six months preceding the liquidator's appointment.

Complaining that a government agency responsible for the licensing of builders has not been diligent in their activities will not protect the contractor against a liquidator's claim for preferential payment.

I've just completed six workshops for the Federal government's Entrepreneurs' Program "Mentoring of Company Directors in Small/Medium Enterprises". Less than 5% of the directors attending these workshops had heard of the Personal Property Securities Register and more worrying less than 1% claim that they'd ever been approached by their accountant relative to the risks that they were taking by not registering customers and other items on the PPSR.

Our recommendation is that you talk to your clients about the problems relating to the Personal Property Security Register and that you offer to undertake due diligence reviews to check on your clients' systems relative to this legislation which can really destroy businesses if people have ignored it.

B. Company Directors' Briefings

Besides the Personal Property Securities Register, the other matter that really created some discussion in the company directors' briefings was the decision made in the Centro Properties case where the court ruled that a substantial amount of money that had been shown in the Balance Sheet as a Long-Term Liability was in fact a Current Liability.

The directors were concerned that the court had ruled that directors had to evaluate all the circumstances themselves, even if that meant that they had to ignore professional advice as to the calculation of the amount owing as a Current Liability.

This is basically what happened in the Centro Properties case.

The Chief Financial Officer and the auditor had apparently made a recommendation as to the amount to be shown as Current Liabilities – subsequently the court disagreed with this and was very critical that the company directors had not ensured that the Balance Sheet reflected what the Current Liability amount was in accordance with the loan documentation.

Company directors and accountants need to be very careful how Current Liabilities, relative to loan commitments, are determined because the Centro Properties case is now the "law" relative to company directors' duties pertaining to the determination of a Current Liability.

Another area of some concern to the directors was the commercial risk that a "non-active director" is assuming by continuing to be a director on a company Board of Directors.

Our recommendation is that, if you are aware of company directors who are not fully participating in Board of Directors meetings, persons be informed of the risks that they are taking if there is a significant failure within the company.

C. Crowd-Sourced Funding Update

The Federal Treasurer has announced that he will be tabling legislation in Federal Parliament in the near future which will enable propriety limited companies to be able to use Crowd-Sourced Funding if the company directors wish. We will have more information on this when the legislation is tabled. When the legislation is passed by Parliament we will be updating our product package on Crowd-Sourced Funding.

ASIC has also announced that they are finalising the rules relative to propriety limited companies being able to convert to an unlisted public company for the commencement of Crowd-Sourced Funding from 29th September 2017.

ASIC has also indicated that they are currently finalising the rules for "intermediaries" under the Crowd-Sourced Funding Legislation.

The Federal Treasurer indicated in his comments that the role of "intermediaries" under the current Crowd-Sourced Funding Legislation will continue under the legislation changes that he is proposing.

D. Accountants Minute

You can access the Accountants Minute articles that we have prepared over the last four weeks at www.essbiztools.com.au click on to "Blog". The blog articles are as follows:

- Accountants – Advising Clients of Government Grants is Good Business!
- Accountants and Business Advisors – SMEs want "Someone" to provide "Business Advisory Services"!

- Accountants and Business Advisers – Are You Preparing for Crowd-Sourced Funding?
- Accountants and Business Advisers – Crowd-Sourced Funding – Heralds a New Era for SMEs!
- Accountants – Are you Adding Value to Company Directors?
- Consultants Training to Deliver Business Advisory Services
- Accountants, Do You Want to Offer Consultancy Services?
- Accountants, How to Create Value-Add for Your Clients

E. For Accountants - Article

"For Accountants" included our article "Accountants, Are You Adding Value to Company Directors?". If you would like to access the article ([Click here](#)) to access this article on "For Accountants".

F. Government Grant Application Deadlines

Government grant application deadlines ([click here](#)).

G. Mentoring Sessions

If you would like to participate in a complimentary mentoring session with your team, please contact us so that we can allocate a mutually convenient one hour for the mentoring session to be presented.

Thank you for your support - from the team at ESS BIZTOOLS, ESS BASIP and ESS BIZGRANTS -If you have any questions, suggestions or criticisms, please do not hesitate to contact us P: 1800 232 088 or E: peter@essbiztools.com.au.

Kind regards



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