



TAXING TIMES

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IMPORTANT NOTICE PPSR TRANSITION PERIOD ENDS JANUARY 2014

What is PPSR?

From 30 January 2012, the Personal Property Securities Act 2009 (Cth) (PPS Act) established a new system for the creation, priority and enforcement of security interests in personal property, which is generally all property other than land, fixtures and certain statutory interests.

The PPS Act generally applies to security interests in goods located in Australia, or to the grantor of the security interest being an Australian entity.

The centrepiece of the PPS Act is the national Personal Property Securities Register (PPSR) on which security interests in personal property may be registered.

This fact sheet should be read in conjunction with the Personal Property Securities - Key concepts fact sheet.

What is a transitional security interest?

A transitional security interest (TSI) is an interest in personal property that, in substance, secures payment or performance of an obligation which existed prior to 30 January 2012.

TSIs also include security interests that didn't exist at 30 January 2012, but were created under a security agreement that existed prior to 30 January 2012 and continued to exist after that time.

An example of this could be goods supplied in 2013 under a retention of title (ROT) agreement that was created in 2011.

TSIs can include 'PPS leases', which are generally leases for a term of more than a year, or more than 90 days for certain serial numbered goods, such as a car

What do I need to do now to protect my transitional security interest?

If you are a secured party with respect to a transitional security interest (TSI) that is not yet registered on the Personal Property Securities Register (PPSR), **you need to register it on the PPSR before midnight on 31 January 2014** (Canberra time) to take advantage of "temporary perfection" and preserve the priority status of your TSI.

If you don't do this, temporary perfection for the TSI will not apply from 1 February 2014. Registration of a TSI is free.

Examples of commercial arrangements that may be TSIs not yet registered on the PPSR are:

- leases/hiring agreements (see PPS leases above)
- retention of title supplies
- commercial consignments.

What happens if I don't register my TSI by the end of 31 January 2014

Although there will still be the facility to register a transitional security interest (TSI) on the PPSR after 31 January 2014, choosing to hold off registering until after that date will result in you losing the benefit of the transitional provisions.

What this means is that the 'perfected' status of the security interest will only begin from the time of registration on the PPSR, instead of the earlier date allowable under the transitional provisions if you register before the end of 31 January 2014.

If a security interest loses its 'perfected' status its priority ranking will not be preserved. This means that another person with a security interest in the same collateral with a higher priority ranking (for example, a secured party who registered during the transitional period) will be paid out ahead of you in the event that grantor (the person who hires or buys the goods, or borrows money) defaults.

There is also the risk that if the grantor enters bankruptcy or insolvency and a security interest has not been perfected at relevant times, the security holder will lose their security interest altogether.

Where can I get further information

For more information on transitional provisions, visit the Information Sheets on the 'Ask the Registrar' page at www.ppsr.gov.au.

Alternatively, contact Optima Partners on (08) 6267 2200