Voidable transaction claim

Australian Government
Australian Taxation Office

Who should complete this form?

You should use this form if you are a liquidator making a claim against the Commissioner of Taxation for payment believed to be unfair preference payments or uncommercial transactions.

⚠️ For more information visit: ato.gov.au/insolvency

Section A: **Liquidator details**

Liquidator name

Name of firm

Contact person name

Contact person phone number

Postal address

Suburb/town | State/territory | Postcode

Phone number

Email

Date of appointment

Day / Month / Year

Was an administrator previously appointed?

No ☐

Yes ☐ ▶ Date of appointment   Day / Month / Year

Section B: **Entity details**

Name

Australian company number (ACN) ☐☐☐ ☐☐☐ ☐☐☐

Tax file number (TFN) ☐☐☐ ☐☐☐ ☐☐☐

⚠ We are authorised under the *Taxation Administration Act 1953* (TAA 1953) to ask for a TFN.
You do not need to provide one. However, if you don't it may result in a delay in processing your form.

Section C: **Director details**

Name

Phone number
☐☐☐☐☐☐☐☐☐☐

Address

Suburb/town | State/territory | Postcode

Name

Phone number
☐☐☐☐☐☐☐☐☐☐

Address

Suburb/town | State/territory | Postcode

Name

Phone number
☐☐☐☐☐☐☐☐☐☐

Address

Suburb/town | State/territory | Postcode

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Section D: **Summary of liquidator claim**

Total claim $ ☐☐☐ , ☐☐☐ · ☐☐

Relation back day ☐☐ / ☐☐ / ☐☐☐☐
                   Day   Month   Year

Relation back period From ☐☐ / ☐☐ / ☐☐☐☐ to ☐☐ / ☐☐ / ☐☐☐☐
                            Day   Month   Year   Day   Month   Year

Payments claimed

	Amount	Date Day / Month / Year
1	$ ☐☐☐,☐☐☐·☐☐	☐☐ / ☐☐ / ☐☐☐☐
2	$ ☐☐☐,☐☐☐·☐☐	☐☐ / ☐☐ / ☐☐☐☐
3	$ ☐☐☐,☐☐☐·☐☐	☐☐ / ☐☐ / ☐☐☐☐
4	$ ☐☐☐,☐☐☐·☐☐	☐☐ / ☐☐ / ☐☐☐☐
5	$ ☐☐☐,☐☐☐·☐☐	☐☐ / ☐☐ / ☐☐☐☐
6	$ ☐☐☐,☐☐☐·☐☐	☐☐ / ☐☐ / ☐☐☐☐
7	$ ☐☐☐,☐☐☐·☐☐	☐☐ / ☐☐ / ☐☐☐☐
8	$ ☐☐☐,☐☐☐·☐☐	☐☐ / ☐☐ / ☐☐☐☐
9	$ ☐☐☐,☐☐☐·☐☐	☐☐ / ☐☐ / ☐☐☐☐
10	$ ☐☐☐,☐☐☐·☐☐	☐☐ / ☐☐ / ☐☐☐☐
11	$ ☐☐☐,☐☐☐·☐☐	☐☐ / ☐☐ / ☐☐☐☐
12	$ ☐☐☐,☐☐☐·☐☐	☐☐ / ☐☐ / ☐☐☐☐
13	$ ☐☐☐,☐☐☐·☐☐	☐☐ / ☐☐ / ☐☐☐☐
14	$ ☐☐☐,☐☐☐·☐☐	☐☐ / ☐☐ / ☐☐☐☐
15	$ ☐☐☐,☐☐☐·☐☐	☐☐ / ☐☐ / ☐☐☐☐
16	$ ☐☐☐,☐☐☐·☐☐	☐☐ / ☐☐ / ☐☐☐☐
17	$ ☐☐☐,☐☐☐·☐☐	☐☐ / ☐☐ / ☐☐☐☐
18	$ ☐☐☐,☐☐☐·☐☐	☐☐ / ☐☐ / ☐☐☐☐
19	$ ☐☐☐,☐☐☐·☐☐	☐☐ / ☐☐ / ☐☐☐☐
20	$ ☐☐☐,☐☐☐·☐☐	☐☐ / ☐☐ / ☐☐☐☐
21	$ ☐☐☐,☐☐☐·☐☐	☐☐ / ☐☐ / ☐☐☐☐
22	$ ☐☐☐,☐☐☐·☐☐	☐☐ / ☐☐ / ☐☐☐☐
23	$ ☐☐☐,☐☐☐·☐☐	☐☐ / ☐☐ / ☐☐☐☐
24	$ ☐☐☐,☐☐☐·☐☐	☐☐ / ☐☐ / ☐☐☐☐
25	$ ☐☐☐,☐☐☐·☐☐	☐☐ / ☐☐ / ☐☐☐☐

Total $ ☐☐☐,☐☐☐·☐☐

⚠ If there isn't sufficient space to list all the payments please insert an additional page detailing the amounts claimed.

Section E: **Evidence the Commissioner was preferred (if an unfair preference claim)**

Entity net cash / asset position

Total assets in the liquidation that will be available for distribution to unsecured creditors?

Voidable transaction claims anticipated and for what value?

Value **$** ☐☐☐ **,** ☐☐☐ **·** ☐☐

Priority creditors in this liquidation, including the liquidator fees and costs

Liquidator fees and costs to date **$** ☐☐☐ **,** ☐☐☐ **·** ☐☐

Liquidator fees and costs to completion (estimated) **$** ☐☐☐ **,** ☐☐☐ **·** ☐☐

Previous liquidator / voluntary administrator fees and costs **$** ☐☐☐ **,** ☐☐☐ **·** ☐☐

Employee entitlements:

Salary and wages **$** ☐☐☐ **,** ☐☐☐ **·** ☐☐

Superannuation **$** ☐☐☐ **,** ☐☐☐ **·** ☐☐

Other entitlements **$** ☐☐☐ **,** ☐☐☐ **·** ☐☐

SGC liabilities **$** ☐☐☐ **,** ☐☐☐ **·** ☐☐

Other **$** ☐☐☐ **,** ☐☐☐ **·** ☐☐

Are these priority creditors likely to receive a dividend? **No** ☐ **Yes** ☐

Ordinary unsecured creditors

List (or attach a list of) all known unsecured creditors as at the date of liquidation, including those who have proved in the winding up and the amount of their proof.

Basis for determining the transaction was uncommercial (if an uncommercial transaction claim)

Note relevant evidence that the payment was uncommercial.

Section F: **Entity financial details – in support of insolvency**

Financial performance

	Relation back date	6 months prior	12 months prior	24 months prior (for uncommercial transaction claims)
Date	/ /	/ /	/ /	/ /
Income / Sales	$	$	$	$
Less COGS	$	$	$	$
Gross profit	$	$	$	$
Less expenses	$	$	$	$
Net profit / Loss	$	$	$	$

Did the entity suffer recurring losses?   No ☐   Yes ☐

Accumulated losses $ ☐☐☐ , ☐☐☐ · ☐☐ over a period of _____

Financial position

	Relation back date	6 months prior	12 months prior	24 months prior (for uncommercial transaction claims)
Date	/ /	/ /	/ /	/ /
Assets				
Current assets	$	$	$	$
Non-current assets	$	$	$	$
Total assets	$	$	$	$
Liabilities				
Current liabilities	$	$	$	$
Non-current liabilities	$	$	$	$
Total liabilities	$	$	$	$
Net assets	$	$	$	$
Equity	$	$	$	$

Evidence of insolvency / cash flow

Asset liquidity ratio
(current assets / current liabilities)

Relation back date	:
1 month prior	:
2 month prior	:
3 month prior	:
4 month prior	:
5 month prior	:
6 month prior	:
12 month prior	:
24 months prior (for uncommercial transaction claims)	:

Overdraft facility / overdrawn account

Did the entity have an overdraft facility?

No ☐

Yes ☐ ▸ What was the overdraft limit? $ ☐☐☐,☐☐☐·☐☐

At the start of the relation back period

How much of the overdraft was used? $ ☐☐☐,☐☐☐·☐☐

Was the overdraft limit exhausted? No ☐   Yes ☐

At the end of the relation back period

How much of the overdraft was used? $ ☐☐☐,☐☐☐·☐☐

Was the overdraft limit exhausted? No ☐   Yes ☐

Did the entity have any other accounts (other the overdraft facilities) that were overdrawn? No ☐   Yes ☐

How much was overdrawn at the start of the relation back period? $ ☐☐☐,☐☐☐·☐☐

How much was overdrawn at the end of the relation back period? $ ☐☐☐,☐☐☐·☐☐

Debt factoring

Had the entity entered into a debt factoring agreement? No ☐   Yes ☐

Provide details of the factoring firm.

| |
| |

What is the level of debt owing under the factoring facility? $ ☐☐☐,☐☐☐·☐☐

What is the value of the residual percentage of debts (if any)? $ ☐☐☐,☐☐☐·☐☐

Are those residual debts secured?

No ☐

Yes ☐ ▸ Provide details.

| |

Interaction with creditors other than the ATO

Consider:
- Did the insolvent entity have arrangements with creditors to pay beyond the due date?
- Did the insolvent entity default on these arrangements?
- Was the insolvent entity put on COD terms with any creditors?

Creditor	Arrangements details	Were the terms honoured?	Amount	Date of demand	Age of debt
			$	/ /	
			$	/ /	
			$	/ /	
			$	/ /	
			$	/ /	
			$	/ /	

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Are you aware of any statutory demands or other demands for payment issued against the entity by creditors other than ATO?

Creditor	Description / Outcome	Amount	Date issued
		$	/ /
		$	/ /
		$	/ /
		$	/ /
		$	/ /
		$	/ /

Did the entity have any winding up proceedings issued against it by other creditors?

Creditor	Description / Outcome	Amount	Date issued
		$	/ /
		$	/ /
		$	/ /
		$	/ /
		$	/ /
		$	/ /

Is there any evidence that the insolvent entity:
- **Had difficulties with financial institutions or secured lenders?**
- **Failed to obtain additional funds, extend the level of borrowing or refinancing?**
- **Had default notices issued by a secured lender?**
- **Had a history of dishonoured cheques?**
- **Had a history of exceeding finance facilities?**

Financial institution	Date	Description
	/ /	
	/ /	
	/ /	
	/ /	
	/ /	
	/ /	

Any other relevant information relating to the claim for unfair preference payment

It is not necessary to provide any information regarding the ATO suspecting insolvency.

Annexure coversheet

Ensure the documents you have attached are numbered on this coversheet and are clearly labeled.

Documents attached

Annexure	Document
	Court documents and affidavit material filed by the liquidator
	Bank statements of the insolvent entity, including a copy of the front page of a statement
	Evidence of third party payments, with evidence that the insolvent entity authorised the payment and relationship the third party had with the insolvent entity
	Cheque butts, cash receipts or other evidence of the source of payments
	Aged creditors listing / creditors listing
	Proofs of debts lodged by creditors
	Statements of financial performance (profit and loss statements)
	Statements of financial position (balance sheets)
	Evidence of special arrangements with creditors
	Demands from creditors
	Dishonoured cheques
	Report to creditors or letters to creditors from the liquidator
	Insolvency report from the liquidator (if available)
	RATA completed by the directors
	Other correspondence to the ATO from the liquidator
Any other relevant evidence (list)	

What we do not need

We do not need any information regarding the interaction between the Entity and the ATO which is already available to us, for example:

- case notes
- copies of tax returns
- copies of activity statements
- insolvency report (unless already prepared)
- copies of Running Balance Accounts or Statements of Account
- any correspondence between the entity and the ATO.

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Declaration

Privacy

The ATO is authorised by the *Taxation Administration Act 1953* to request the provision of tax file numbers (TFNs). We will use the TFNs to identify you in our records. It is not an offence not to provide the TFNs. However, if you do not provide your TFN, there may be a delay in processing this form.

Taxation law authorises the ATO to collect information and to disclose it to other government agencies. For information about your privacy go to ato.gov.au/privacy

I declare that:
- *I am the representative of the incapacitated entity or am authorised by the representative of the incapacitated entity to complete this form on their behalf*
- *the information given on this form is true and correct to the best of my knowledge.*

Sign and date below if you are sending by fax or post

Date

Day	Month	Year
☐☐	/ ☐☐	/ ☐☐☐☐

Submitting your form

Make a copy of your completed form for your own records before you do one of the following.

Online services for business users

Complete the form and submit via a secure mail message in Online services for business.

You do not need to sign this form. By submitting the completed form via Online services for business, you declare that the information given on the form is true and correct to the best of your knowledge.

Fax or mail

Complete and attach the debt insolvency cover sheet available on our website at ato.gov.au/contacting-us-about-insolvency and send your documents to us by either:
- fax on **1300 726 594**
- mail to
  **Australian Taxation Office
  PO Box 9003
  Penrith NSW 2740**