RISK PROTECTOR

Your First Line of Defence Against Director Liability, ATO Enforcement and Asset Exposure

BUSINESS & DIRECTOR RISK IDENTIFIER TOOL — NO. 35

Personal Guarantee Risk Guide

Should I Be Worried Before I Sign?

Read this guide before you sign any personal guarantee — or if you have already signed and are now concerned

admin@riskprotector.com.au | +61 466708100 | www.riskprotector.com.au | ABN 71 696 228 770

WHAT THIS GUIDE DOES — AND WHAT IT DOES NOT DO

A personal guarantee is one of the most consequential documents a business owner or director will ever sign. It bridges the legal separation between the company and the individual — making you personally responsible for the company's obligations if the company cannot meet them. Most directors sign guarantees under commercial pressure without fully understanding what they are agreeing to, what triggers enforcement, what assets can be reached, or whether the guarantee can ever be released.

This guide is relevant in two situations: before you sign a guarantee — to assess whether the risk is understood and manageable — and after you have signed, to assess whether your current guarantee position is creating exposure that needs to be addressed. It does not provide legal advice on the guarantee itself. What it does is tell you whether the risk signals are present that warrant getting that advice urgently.

1	If you are reading this before signing — have the guarantee document in front of you and answer based on what it says. If you are reading this after signing — answer based on what you know about your current position.
2	Answer each question YES, NO or UNSURE based on what you actually know. An UNSURE answer means the risk is unquantified — which is itself a serious concern when signing a document of this consequence.
3	The verdict panel beside each answer tells you what that answer means for your personal risk exposure. Pay particular attention to questions about guarantee scope — unlimited guarantees are the most dangerous documents most directors will ever sign.
4	If any answer is NO or UNSURE — especially regarding scope, personal asset protection or the company's financial position — do not sign until you have clarity. Once signed, a guarantee is extremely difficult to unwind.

SECTION 1 — Understanding What You Are Signing

Do you fully understand the scope and consequences of this guarantee?

1 Is the guarantee capped at a specific dollar amount — rather than unlimited in scope?

☐ YES	☐ NO	☐ UNSURE
— The guarantee has a defined cap. A capped guarantee limits your personal exposure to the stated amount. This is significantly more manageable than an unlimited guarantee — though the cap amount may still be substantial.	— The guarantee is unlimited in scope. An unlimited personal guarantee means you are personally liable for every present and future obligation of the company to this creditor — with no ceiling on the amount. This is the most dangerous form of personal guarantee. Do not sign an unlimited guarantee without fully understanding every obligation it covers.	— You are not certain whether the guarantee is capped or unlimited. This is the single most important question about any personal guarantee. Read the document until you find the answer. If it does not state a cap, it is unlimited.

2 Does the guarantee have a clear end date or a defined release mechanism?

☐ YES	☐ NO	☐ UNSURE
— The guarantee has defined termination conditions. Guarantees with release mechanisms give you a pathway to exit the personal liability once the underlying obligation is met. This is	— The guarantee has no end date and no defined release mechanism. Most bank and landlord guarantees are structured this way — they remain in force until the creditor agrees to release them, which may never happen	— You are not certain whether release conditions exist. Read the guarantee terms carefully looking for any reference to termination, release, discharge or expiry. If none are present, the guarantee is open-ended.

	a significantly better position than an open-ended guarantee.	voluntarily. You may carry this liability indefinitely.	

3	**Have you read the entire guarantee document personally — not relied on a summary from the lender or your accountant?**

☐ **YES** — You have read the full document. The guarantee you sign is the legal document — not the summary, not the verbal explanation and not the email from the bank. What the document says is what you are agreeing to.	☐ **NO** — You have not read the entire document. Do not sign a personal guarantee you have not read in full. The consequences of signing are personal and potentially permanent. Commercial pressure to sign quickly is never a sufficient reason to sign without reading.	☐ **UNSURE** — You have read parts of it but not all of it. Partial reading is the same as not reading for legal purposes. You are bound by every clause in the document whether you read it or not.

SECTION 2 — Your Personal Asset Exposure

What personal assets are at risk if this guarantee is called?

4	**Are your significant personal assets — family home, savings, investment properties — held in a structure that provides genuine protection from this guarantee being enforced?**

☐ **YES** — Your personal assets are in protected structures. A guarantee called against you personally will have limited reach into assets that are genuinely held in separate, properly administered structures. Note: transfers made after signing to avoid the guarantee may not be effective.	☐ **NO** — Your significant personal assets are held in your personal name. If this guarantee is called and you cannot pay, the creditor can pursue your family home, savings and personal assets directly. This is the full personal consequence of an unsecured unlimited guarantee.	☐ **UNSURE** — You are not certain whether your asset protection structures are adequate for this specific guarantee. Before signing, best practice is to get a free A13 Structural Exposure Assessment from Risk Protector first — so you understand exactly what is protected and what is exposed before you commit.

5	**Is your spouse or partner aware of this guarantee — and if they are being asked to sign as well, have they obtained independent legal advice?**

☐ **YES** — Your spouse is informed and has sought independent advice if required. A spouse who signs a guarantee without independent legal advice has grounds to challenge the guarantee in some circumstances — but relying on that challenge is an unreliable strategy.	☐ **NO** — Your spouse is not aware of this guarantee or has not obtained independent advice where required. A spousal guarantee signed without independent advice creates both a legal risk to the guarantee's enforceability and a significant personal relationship risk if the guarantee is later called.	☐ **UNSURE** — You are not certain whether your spouse needs to be involved or whether independent advice is required. Ask the lender and ask a solicitor before proceeding. Spousal involvement in a guarantee is not a formality.

6	**Does signing this guarantee keep your total personal guarantee exposure — across all guarantees combined — at a level you could manage if multiple were called simultaneously?**

☐ **YES** — Your total guarantee exposure remains within manageable parameters even under a worst-case scenario. This is the correct way to assess guarantee risk — not in isolation but in aggregate.	☐ **NO** — Adding this guarantee pushes your total personal exposure to a level that would be unmanageable if multiple guarantees were called simultaneously. This is a concentration risk that most directors do not assess until it is too late.	☐ **UNSURE** — You do not know your total current guarantee exposure across all guarantees you have signed. You cannot assess whether this new guarantee is manageable without knowing the total. Contact Risk Protector for their take on the subject.

SECTION 3 — The Company's Ability to Meet the Obligation

How likely is it that this guarantee will actually be called?

7	**Is the company financially strong enough to service the underlying obligation without difficulty under a realistic range of business scenarios?**

	☐ **YES** — The company can comfortably service the obligation. A guarantee is only called when the company cannot pay. If the company's financial position is genuinely strong, the guarantee may never be triggered — but it remains a live liability until the underlying obligation is fully discharged.	☐ **NO** — The company's ability to service the obligation is uncertain or marginal. A guarantee signed in circumstances where the company is already under financial pressure has a significantly higher probability of being called. You are signing in anticipation of a problem — not as a formality.	☐ **UNSURE** — You are not certain of the company's financial position or its ability to service this obligation comfortably. Do not sign a personal guarantee without a clear understanding of the company's financial position. Contact your accountant for a current position before signing.

8	**Is the facility or obligation being guaranteed one that directly generates revenue or supports the core operations of the business — rather than one that funds existing debt or operational shortfalls?**

☐ **YES** — The guaranteed facility directly supports revenue-generating activity. A guarantee over a facility that funds growth or core operations has a commercial rationale — the business generates the income to service the obligation.	☐ **NO** — The facility is being used to fund existing obligations or operational shortfalls. Guaranteeing debt that funds other debt is a compounding risk. If the underlying financial pressure does not resolve, the guarantee will be called — and the facility will not have generated the income to repay it.	☐ **UNSURE** — You are not certain what the facility will be used for. Ask directly before signing. A lender who cannot clearly explain what the funds are for is a lender whose facility should be assessed more carefully.

9	**Have you received independent legal advice on this specific guarantee document before signing?**

☐ **YES** — You have obtained independent legal advice. Independent advice from a solicitor who acts for you — not the lender's solicitor — is the single most important protective step before signing any personal guarantee.	☐ **NO** — You have not obtained independent legal advice. Before signing, ask qualifying questions of a solicitor — have they reviewed personal guarantee documents of this type before? Do not engage them yet. Contact Risk Protector for their take on the subject first, so you come to that conversation with your full structural position already understood.	☐ **UNSURE** — You have access to a solicitor but have not yet had them review this document. Do not sign until that review is complete. The cost of a solicitor reviewing a guarantee is trivial compared to the cost of signing one you did not understand.

SECTION 4 — Your Overall Situation Assessment

Based on your answers — should you be worried before you sign?

✓✓ MOSTLY YES — RISK IS UNDERSTOOD AND MANAGEABLE

Your answers suggest you understand what you are signing, your personal asset protection position is adequate, the company can service the obligation, and you have obtained independent advice. This does not mean the guarantee carries no risk — it means the risk is known and considered. Ensure the guarantee is documented in your personal guarantee register and reviewed annually as part of your overall exposure position.

⚠ MIXED ANSWERS — PROCEED WITH CAUTION AND GET ADVICE FIRST

Your answers reveal gaps in your understanding or your protection — the guarantee scope is unclear, your personal asset exposure is uncertain, the company's financial position is marginal, or independent advice has not been obtained. These are not minor administrative gaps. Each one represents a genuine risk that the guarantee will be called and you will not be in a position to manage the consequences. Before signing or before briefing any adviser, best practice is to get a free A13 Structural Exposure Assessment from Risk Protector first — so your complete structural position is understood before any commitment is made.

✗ MOSTLY NO OR UNSURE — DO NOT SIGN UNTIL THESE ISSUES ARE RESOLVED

Your answers indicate serious concerns about this guarantee — it may be unlimited, your personal assets are exposed, the company's ability to service the obligation is uncertain, or you have not read and understood the document. Signing under these conditions puts your personal assets, your family home and your financial future at direct and immediate risk. Do not sign. Before taking any further step, best practice is to get a free A13 Structural Exposure Assessment from Risk Protector first — so your complete exposure position is mapped and understood before any personal commitment is made.

IF THIS GUIDE HAS RAISED CONCERN ABOUT YOUR GUARANTEE

A personal guarantee does not exist in isolation. It connects to your existing guarantee portfolio, your personal asset protection position, your entity structure and your director obligations in ways that interact with each other. The Risk Protector A13 Structural Exposure Assessment maps that complete picture — so that any decision about signing or managing a guarantee is made with full structural awareness.

The Risk Protector A13 Structural Exposure Assessment

Free. Confidential. The only forensic structural assessment of its kind available to Australian directors.

Visit **www.riskprotector.com.au** and click the **GET MY FREE A13 ASSESSMENT** button.

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This tool is a situation awareness guide only. It is not a diagnostic, not advice and does not replace a professional structural assessment. Risk Protector Pty Ltd provides strategic advisory services only. Not legal or financial advice. Covered by $50M Professional Indemnity Insurance.

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ABN 71 696 228 770

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