

Acquiring assets from insolvent companies



A chap in the pub says I can liquidate my company and keep all the assets. Is that true?

Every pub has one of these guys – they’ve seen it all and been there before and they seem to have an intimate knowledge of the legal landscape despite not knowing exactly how many drinks they’ve consumed that evening.

We are occasionally asked this by directors – can they liquidate and keep the assets?

The answer is that directors of limited companies **are able** to acquire assets from a company in liquidation. What they **can’t do** is retain asset for no consideration, or expect to get them for a ‘knockdown’ price and they need to be aware of the process around any sale and the disclosures that have to be made.

Dispelling some myths

1. A company’s assets belong to the company – they don’t belong to the director, nor do they belong to shareholders.
2. Book values in statutory accounts do not always reflect marketing values – you can’t expect to pay book value for an asset that has been depreciated to £1 in the books if the asset is worth more on the open market.
3. Liquidation sales do not always mean ‘knock down’ values.

A liquidator’s job is to get the best outcome reasonably possible for creditors. To do this a liquidator will (in 99% of cases) obtain a valuation from an independent agent who will advise the liquidator on any offers made. A liquidator and/or his agent might decide that the director’s offer is not enough and can look at other routes for recovery, such as online sales, auction or to a specialist stock/asset buyer.

We may take into account savings that an ‘in situ’ sale will have, such as avoiding costs of decommissioning, removal, storage and insurance of assets pending sale.

Asset sales to connected parties are subject to specific disclosures to creditors, who will be advised the name of the purchaser, the price(s) paid, any valuations and an explanation of why assets were sold on that basis.

There are special rules in administration that relate to ‘pre-pack’ sales of business and assets, particularly to connected parties.

Contact us for more information and to discuss specific circumstances.