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DEAR INSOLVENCY PRACTITIONER Issue 133 – July 2021

Dear Reader

Please find enclosed the latest articles from the Insolvency Service and HMRC.

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30) Changes to HMRC’s liquidation process for Corporation Tax cases

As part of HMRC’s work to reduce the administrative burden on insolvency practitioners, it is improving its process for when Companies House notify HMRC about an insolvent liquidation.

After receiving a notification of liquidation, HMRC will update its system to make these records inactive. This will stop initial and annual notices to file (CT603) being issued, so you won’t have to respond to those communications.

HMRC will write and tell you that it has made the company’s Corporation Tax record is inactive and provide you with the company’s Unique Tax Reference (UTR).

If, during the period of liquidation, there has been no activity giving rise to a charge under Corporation Tax, you will no longer have to submit nil Company Tax returns or liquidator reports. This will remain the case for the period of liquidation and. Under normal circumstances, there will be no requirement to contact HMRC for tax clearance relating to Corporation Tax prior to closing the liquidation.

HMRC will only contact you if it requires a Company Tax return or any additional information.

In insolvent liquidations, you will need to be satisfied you have all outstanding tax matters closed before you move to have the company struck off.

The process for administrations and solvent liquidations remains unchanged.

What happens next?

Over the coming weeks, the new letters stating the company’s Corporation Tax record is inactive and providing the company’s Unique Tax Reference (UTR) will start being delivered.

Once delivered, if insolvency practitioners experience any issues in the initial few months please raise them with R3 or your authorising body, who will contact HMRC to take forward.

Questions & answers

Q. Does HMRC’s new way of working only apply to notifications after the new process is implemented?

A. The new process will only apply to new insolvency cases. For current insolvency cases the insolvency practitioner can inform HMRC that no future returns will be expected, then it won’t normally issue an Annual Notice to File (CT603).

Q. What is the process for CT603s when there's no liability for Corporation Tax?

A. Where there is no liability for Corporation Tax, the insolvency practitioner does not need to:

- file a nil Company Tax Return (CT600)
- send a liquidator report to HMRC's CT Services.

To reduce the administrative burden, we would expect insolvency practitioners to file a CT600 only when there is something to declare or in response to

Q. Where there is a Corporation Tax liability, how will accounting periods work?

A. These will continue to be based on the current accounting period rules normally applied to Corporation Tax.

Q. If a Corporation Tax liability exists in one period but not in others, does the insolvency practitioner have to submit further Corporation Tax returns because one has been submitted for the first year? Or are insolvency practitioners expected to file a CT600 for earlier accounting periods only when a Corporation Tax liability arises in a later period?

A. The insolvency practitioner should submit the return of the period where the charge is raised. There is no requirement to complete further returns unless there are additional charges or a CT603 has been issued.

Q. What will happen when there are 'local arrangements' in place across firms where there is de minimis liability for Corporation Tax indicating no return is required, or payment made?

A. HMRC does not operate 'local arrangements' and returns are required in all cases where a liability exists.

Q. Which address will HMRC write to when confirming with insolvency practitioners that the Corporation Tax records are dormant?

A. HMRC will write to the liquidator's address (as per details registered at Companies House) once records are updated with the insolvency details. This letter will include the Unique Tax Reference (UTR).

Q. If income is received post liquidation and a tax liability arises, when should a return be made?

Example

In a company voluntary liquidation (CVL) if the company goes into voluntary liquidation on 1st January 2021 - is due to file tax returns to 31 December each year and income is received in March 2022.

Would insolvency practitioners be expected to submit a tax return for the year ending 31st December 2022? Or is there scope to shorten the period/file one tax return, at the end of the CVL to deal with all income at once?

A. This new process does not change established practices. The insolvency practitioner should follow the guidance <https://www.gov.uk/change-your-companys-year-end> to shorten the final period.

Q. As tax is payable before a CT600 is due, how does HMRC propose insolvency practitioners obtain the tax payment reference normally stated on the CT603? Can they be obtained over the phone/web chat while the company is marked as dormant or will insolvency practitioners have to write in to request it?

A. Insolvency practitioners can contact HMRC Corporation Tax: general enquiries - GOV.UK via phone or webchat with their proposed accounting period dates and advisors will give them a tax payment reference number.

Q. If a tax return is filed, is the company automatically marked dormant again or does the insolvency practitioner have to contact HMRC to request this?

Example - If a return is filed for the year end 31 December 2022, would a CT603 be issued for the year end 31 December 2023 or would the return be treated as a one-off and not affect the overall dormant status?

A. Insolvency practitioners should submit the return for the period where the charge is raised. There is no requirement to complete future returns unless there are additional charges or a CT603 has been issued.

Q. Insolvency practitioners are asked to satisfy themselves that all outstanding tax matters are closed in insolvent liquidations, before moving to have the company struck off. Does the same apply to compulsory winding up orders?

A. HMRC classify this as an insolvent liquidation.

74) Redundancy payments: Template for setting up a new case

The Redundancy Payments Service (RPS) has issued a new template for use by insolvency practitioners and their staff/agents when requesting a new Redundancy Payments case set up.

The questionnaire is designed to assist in early stage case triage by the RPS and to help plan and deliver services to the insolvency profession and to employees who have been made redundant.

The document can be found on our gov.uk page here: [Redundancy payments: Template for setting up a new case - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/94422/redundancy_payments_template_for_setting_up_a_new_case.pdf)

General enquiries may be directed to RPS.Stakeholder@insolvency.gov.uk

75) Redundancy payments: National Insurance number validation on Insolvency Practitioner Upload Service

The Redundancy Payments Service (RPS) has introduced an automated check on the validity of National Insurance numbers being submitted on RP14A's via the Insolvency Practitioner Upload Service.

Any National Insurance numbers which are incomplete or missing from the employee record will cause the upload to fail.

Please ensure each employee record contains a correctly formatted National Insurance number. HMRC guidance on National Insurance number formatting can be found here: [NIM39110 - National Insurance Manual - HMRC internal manual - GOV.UK \(www.gov.uk\)](#)

By including National Insurance numbers as part of the set of validating data necessary for successful RP14A uploads, RPS will provide a better service to its customers and minimise inconvenience to insolvency practitioners.

The RPS also has a duty to report the payments it makes in the form of Real Time Information (RTI) to HMRC. The inclusion of valid and correctly formatted National Insurance numbers in the RP14A forms will assist accurate reporting.

General enquiries may be directed to RPS.Stakeholder@insolvency.gov.uk

57) IVA protocol 2021

The revised 2021 IVA protocol was published on 28th April 2021 and will come into effect on 1st August 2021.

Some minor amendments have been made to clarify the provisions on equity to reflect the position of the IVA standing committee.

Most notably, if you have a consumer who has equity above the de minimis value and may be able to release this at the end of the IVA term ('option 3'), a 72-month IVA will be proposed and reduced to 60 months if that release of equity is successful.

This provides for more certainty for both the consumer and creditors.

The new 2021 provisions seek to provide clarity to both the consumer and creditors on day one of the IVA, as the standing committee had found that some IVAs were being proposed with equity included that would never have been released in practice.

If a consumer has equity above the de minimis amount they will either fall into option 2 or 3. Option 2 IVAs are those where a consumer has no real prospect of releasing equity at the end of the arrangement. This does not mean that, if a sale of the property is actioned at the customer's instigation during the term of the IVA, that equity would not be expected to be introduced into the arrangement.

When deciding which option is most appropriate for a consumer, the IP must have regard for the ability for the consumer to obtain a re-mortgage at around month 54 of the arrangement, not at the date the IVA is proposed.

Annex 5 seeks to assist with potential criteria which could influence the ability for equity release, although it is not an exhaustive list.

No single factor will determine if the consumer can have an option 3 IVA and the IP must consider the age of the consumer, disposable income (DI) and the clause that only allows for 50% of that DI to be used for payment of a re-mortgage (e.g. £100 a month IVA contribution would see a £50 contribution which is unlikely to be substantial enough to secure the borrowing needed).

It is essential (in those circumstances) that the IP makes it clear to the consumer if they will be expected to release equity and that successfully doing so will reduce their IVA term to 60 months.

The committee would also like to draw your attention to the redundancy clause in the protocol which has been updated to make it easier to interpret and understand.

Additionally, it should be noted that the front cover sheet which is sent to creditors has been included at Annex 5. The only change to that sheet is the inclusion of three boxes which set out the possible approaches to equity. The committee ask that IPs please ensure this is completed so that creditors can mark the decision on their file and the committee can track use of the new provisions for future revisions of the protocol.

The 2016 protocol should not be used for any new IVAs proposed after 31st July 2021.

*Any enquiries regarding this article should be directed towards
email: IPRegulation.section@insolvency.gov.uk*

58) Reviewing current Individual Voluntary Arrangements (IVAs)

Insolvency practitioners will be aware that the criteria for consumers to enter a Debt Relief Order (DRO) changed on 29th June 2021.

Insolvency practitioners are reminded of their obligation to ensure that people in financial difficulty enter the right solution for their individual circumstances and that, once implemented, it remains appropriate.

Those who supervise IVAs should therefore consider the impact of the changes to the DRO criteria on their portfolio and if necessary, put in place a policy to review cases in order that they approach cases consistently.

When determining when to review cases, insolvency practitioners should look at consumers' individual circumstances in order to decide whether this should happen immediately or at their annual review.

After consideration, if an IVA is no longer the best option for that consumer, they should be directed to appropriate advice and supported by their supervisor through any transition.

If insolvency practitioners are unsure how they should approach particular cases, they should approach their RPB for advice.

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