



The Insolvency
Service

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DEAR INSOLVENCY PRACTITIONER Issue 150 – September 2022

Dear Reader

Please find enclosed the latest articles from the Insolvency Service.

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45) Tax Clearance Requests in Members Voluntary Liquidations (MVLs)

HMRC is changing their process for giving Insolvency Practitioners tax clearance in MVL cases. There will no longer be a requirement to post these requests to two separate areas of HMRC.

From 12 September 2022, please email all requests for Corporation Tax (CT), Pay as You Earn (PAYE) and Value Added Tax (VAT) clearance to HMRC's EIS MVL Team, at:

mvl.teameisw@hmrc.gov.uk

Please make sure you write 'Clearance - [Name of Insolvency Case]' in the subject line.

For HMRC to progress your clearance requests quickly, please make sure that:

- all returns up to the date of liquidation have been submitted for all tax types,
- there is no outstanding debt due up to the date of the liquidation,
- statutory interest has been paid (if applicable).

HMRC will check and respond by post, providing one reply covering CT, PAYE, and VAT clearance. Any tax clearance HMRC provides is as at the date of the letter.

HMRC is making these changes so that it is easier for Insolvency Practitioners to obtain all tax clearances in MVL cases together, and to speed up their response.

Please note, you must continue to send all other Corporation tax queries to:

HM Revenue and Customs
Corporation Tax Services
BX9 1AX

46) Process for Director Loan Accounts (DLAs) written off as part of corporate insolvency procedures

Background

HMRC has designed a new voluntary process to allow a more data-driven and targeted approach to the issue of Director's Loan Accounts (DLAs).

This specifically applies in situations where DLAs are written off as part of a corporate insolvency procedure because the debtor cannot afford to repay the loan to the company. The process is entirely voluntary, and Insolvency Practitioners don't need to use it if they don't wish to.

When is a DLA written off?

HMRC repayment guidance is available at [CTM61600](#) and the guidance for writing off a loan is at [CTM61655](#) of HMRC's Company Taxation Manual.

HMRC's Customer Strategy & Tax Design (CS&TD) are the product owners for [Section 455 CTA 2010](#) tax and they administer this part of the tax legislation. They have confirmed that there is no prescribed form of words or process for writing off a loan.

The crux of the issue is that the company:

- accepts that the loan will not be repaid, and
- gives up attempts to collect the debt.

Each case will be judged on its own facts, and the decision as to whether to write a loan off or not is solely a decision for the Insolvency Practitioner to make.

If you are in any doubt about the tax consequences of writing off a loan, then please contact Craig Dickson at craig.dickson@hmrc.gov.uk to discuss the case.

What are the tax consequences of a DLA being written off?

If the company has paid Section 455 tax to HMRC, to claim a repayment of the tax under [Section 458 CTA 2010](#) the loan must be:

- released,
- repaid, or
- written off.

Once one of those events has happened, the company becomes entitled to a repayment of any Section 455 tax that has paid on the loan in question.

If only a proportion of the loan has been released, repaid, or written off then the company will only be able to claim for a repayment for that proportion. For example: if 25% of the loan has been released, repaid, or written off then the company can claim for 25% of the Section 455 tax back.

A claim must be made within four years of the end of the financial year in which the repayment, release, or writing off occurs. The repayment is due nine months and one day after the end of the accounting period in which the loan was released, repaid, or written off. In other words, if the loan was written off in accounting period ending 31 December 2021, then repayment would be due on 01 October 2022.

Repayment of S455 tax out of contract settlements

HMRC's guidance on contract settlements is at [EM6000](#) onwards of the HMRC Enquiry Manual.

Put simply, a customer or customers will pay HMRC a sum of money in return for HMRC not formally issuing assessments for tax and penalties. This sum could be in one lump or over instalments, and a contract can have joint and several liability between different entities. The contract itself is a binding agreement and HMRC's Debt Management will enforce the payment terms in the same way that they would with any other charge.

Where Section 455 tax has been paid to HMRC as a part of a contract, then the process for providing repayments in line with Section 458 is different.

Payments for contract offers are kept on a separate accounting system (Strategic Accounting Framework Environment or SAFE) – and when a request for repayment under Section 458 is received, HMRC amends the charge on this system. Repayments must be approved by a compliance officer (see [EM6415](#)).

If you have a case involving a contract settlement that is proving difficult, then Craig (craig.dickson@hmrc.gov.uk) would be very happy to help as he is the national lead for such cases across Individual and Small Business Compliance (ISBC).

New write off process

Where an Insolvency Practitioner wishes to use the new process, copies of all final reports that contain DLAs should be sent to the new mailbox: writeoffmailbox.isbcs455@hmrc.gov.uk.

Practitioners can contact Craig at the email above prior to the submission if they would like to talk through the details of the case before sending the

report to him. Earlier dialogue should mean early handling of any issues or opportunities.

A forwarding rule will be created to ensure that the final reports still get sent on to the mailbox that they get sent to now.

The details of each company will be added to a secure spreadsheet and will be subject to an initial triage to establish any:

- tax compliance risks, or
- assets that might facilitate recovery.

If there are assets identified that might have been missed, the Insolvency Practitioner will be contacted to discuss potential recovery routes. If there are no assets and if an element of a loan is not going to be fully recovered, then the customer prompt part of the process is enabled.

A ‘nudge’ letter will be sent to each individual customer who has benefited from a loan being written off. This letter will advise them of the need to return the income on their next Self-Assessment tax return per [Section 415 Income Tax \(Trading and Other Income\) Act 2005](#). (HMRC’s Savings and Investments Manual at [SAIM5200](#) provides more detail).

Customer returns will be monitored to check whether this income has been returned as advised; if it has not then a formal enquiry under [Section 9A Taxes Management Act 1970](#) will be opened.

All information relating to the process will be kept on the secure spreadsheet, which will allow HMRC to:

- build up a picture of the volume and quantum of DLAs being written off, and
- establish an evidence base on which to develop future compliance work into this customer population.

We also aim to support Insolvency Practitioners in generating better returns for creditors.

Queries

The process is run and maintained by Craig Dickson in ISBC. You can contact Craig with any queries on 03000 592232 or at craig.dickson@hmrc.gov.uk.

54) Questions changes to the Director Conduct Reporting Service (DCRS)

The Insolvency Service will be making changes to DCRS, with an expected date of delivery on 3 October 2022. Final confirmation of the date and time for the release will be displayed on the DCRS landing page during the week before delivery.

Changes

A new section will be added to the form regarding financial support schemes and abuse of the schemes or misuse of funds. This section will allow users to more easily report abuse of Covid support schemes as well as other financial support.

Changes are also being made to the Company Director Summary section. When moving through the form or navigating to that section, the first page will now be an overview where all added directors can be viewed and new ones added. This page will also include the option to add a corporate director and there is a new question set for this type of director.

DCRS navigation and the preview page have been amended to take account of these changes.

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

76) Creditor bankruptcy and compulsory liquidation petition deposits to rise

The Insolvency Service is introducing changes to the deposits paid to initiate creditor petition bankruptcies and compulsory liquidations.

The petition deposit (the amount that needs to be paid up-front to seek a court order) will be increasing in all cases where a petition is filed at court on or after the 1 November 2022.

There will be no change to the adjudicator petition deposit where the individual applies for their own bankruptcy

Changes being made to deposits

	Current Fee	Fee from 1 Nov 22
Creditors' bankruptcy petition deposit	£990	£1,500
Compulsory liquidation petition deposit	£1,600	£2,600

Fees have not changed since April 2016. Insolvency case numbers have fallen to a historically low level, and the majority of the remaining cases have insufficient asset values to recover the administration costs. The deposit is the only source of funding in a significant volume of the cases administered by the Official Receiver.

The deposit increase will enable the Insolvency Service to continue to administer and investigate insolvencies effectively, maximising outcomes for creditors whilst mitigating the risk of cost recovery being passed on to the taxpayer.

If there are sufficient assets to recover all the fees and costs, then the deposit is returned to the party who initiated the insolvency.

This change has been implemented through a change in legislation. The Insolvency Proceedings (Fees) (Amendment) Order 2022 was laid in Parliament on 5 September 2022 with a commencement date of 1 November 2022.

For further information on these changes please contact:
DepositsChange.2022@insolvency.gov.uk