

HMRC Bank Raiding Powers

As many of us are aware, dealing with HM Revenue & Customs can be traumatic and retrieving funds which have been misallocated often proves very difficult.

Under new powers proposed in the Budget, HMRC will be given the right to take outstanding tax liabilities direct from a debtor's bank account. The plans are going through the consultation process, and if approved by Parliament, they will take effect in 2015-16.

These proposals would appear to fly in the face of the underlying principle of insolvency, "Pari Passu", which states that all unsecured creditors are paid equally. This indeed was the very principle which HMRC disputed in court with the Football Leagues when football creditors were paid first, ahead of secured and unsecured creditors. The taxman lost that case in court but now it appears he wants to be able to behave in a similar fashion.

The new rules will include:

- HMRC only targeting those who have long-term debts and have received at least four demands for payment
- Ensuring that at least £5,000 is left in total across all debtor's accounts, including savings accounts, after the unpaid tax is seized
- Allow the debtor 14 days to pay before the money is seized

From an Insolvency Practitioners point of view, we can see a lot more situations arising whereby Insolvency Practitioners will be pursuing HM Revenue & Customs for the repayment of monies removed from the debtor's estate prior to insolvency proceedings.

It will be interesting to see how the procedure will be formulated by HM Revenue & Customs, but there appears to be little doubt that there will be instances which will have serious repercussions on debtors' businesses and therefore we need to ensure that any clients seek the relevant professional advice at the earliest opportunity.

Please note that should your clients require any confidential advice regarding this or any other insolvency matter they are welcome to contact one of our Partners. An initial consultation is provided free of charge and without obligation. Also, if you or any of your colleagues require any clarification regarding insolvency law or procedure, please do not hesitate to contact us.