

HMRC Bank Raiding Powers

Back in May 2015, we commented on the 2014 Budget and in particular proposals to provide HMRC with the power to collect arrears of tax directly from the taxpayers' bank account. Legislation providing HMRC with such power is included in the Summer Finance Bill 2015 and will take effect once the Bill receives Royal Assent.

The legislation will allow HMRC to collect tax arrears from non-compliant individuals and businesses with debts over £1,000 who have not complied with their legal obligations, providing they leave a minimum of £5,000 in the account. Banks and building societies will be obliged to provide HMRC with account information and freeze accounts or transfer the funds to HMRC. The legislation also contains provisions to allow the Bank or building society to recoup any costs via an administration charge against the taxpayers' account.

There are numerous areas of concern regarding the new legislation and HMRC have confirmed it will only be used as a last resort. However, the legislation will introduce several practical implications such as:

- The impact of the £5,000 threshold on a trading business' cashflow
- The accuracy of the underlying debt being pursued by HMRC – will they still collect if the amount is genuinely disputed?

From an Insolvency perspective, the new powers will generate concerns regarding the corporate restructuring of businesses in financial distress. HMRC may use this power when it is aware that a business may be on the verge of insolvency, depleting cash resources and making any restructuring plan no longer viable. It may also give rise to situations whereby the appointed Insolvency Practitioner will be pursuing HMRC for monies collected immediately prior to an insolvency.

HMRC project that the new powers will affect approximately 11,000 individuals and businesses each year with just 200 objections being received against the action taken. Where an objection is made there is provision in the legislation for the taxpayer to follow this up with an appeal to the County Court.

The Office for Budget Responsibility has forecast that the cost of implementing the change to HMRC will be £800,000 over 5 years whilst recovering a further £420m of tax arrears in the same period.

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.