



4R BUSINESS
RECOVERY

> RESCUE, RECOVERY & BUSINESS TURNAROUND



4R Business Recovery HMRC Debt Guide

4R Business Recovery Helping You
Turnaround Your Business

A Few Words From Kevin

Here at 4R Business Recovery, we understand that no two businesses are the same. Every day we help companies of all sizes turn things around against seemingly impossible odds.

Regardless of your situation, we're here to help.

This guide has been put together to help you understand what HMRC debts is and what it could mean to you.

If you have any questions about what you see here, and would like to speak to one of our expert advisors, call **0800 902 0123** or email info@4rbusinessrecovery.co.uk

Alternatively, if you would like to contact me at kevinpritchard@4rbusinessrecovery.co.uk I will be happy to answer any of your questions directly.

I hope you find the guide useful. Our initial consultations are free and importantly totally confidential. We will work with you to devise an action plan that suits your circumstances.

Kindest regards,

Kevin Pritchard
Managing Director
4R Business Recovery Ltd



An Introduction to HMRC Debts and Tax Arrears

Many companies experience problems paying HM Revenue and Customs (HMRC) so we understand the anxiety you are feeling. HMRC expects all taxpayers, sole traders, partnerships and companies to manage their cash flow so that they can pay their tax on time and in full.

No one likes to pay tax but we recognise that tax needs to be paid, therefore if you have a build up

of tax arrears (PAYE, VAT & Corporation Tax) with HM Revenue & Customs it could be a sign you are trading insolvent. Once arrears have been built up and a tax debt exists this becomes an almost impossible task for a struggling business to manage.

In 2002 "The Enterprise Act" removed the "preferential" creditor status of HMRC. This makes all tax arrears "unsecured debt" for the purpose of insolvency, which means HMRC face substantial losses by allowing a company to continue to trade and build up significant tax arrears.

Tips

- The unsecured status of HMRC in a compulsory or voluntary liquidation can expose directors to the risk of legal action by the Insolvency Service. Preferring other creditors at the expense of HMRC is the single biggest cause of Director Disqualification Order and Money Order being made against Directors. If you have HMRC debts and want advice about how to avoid allegations of wrongful trading or preferring other creditors or simply want to understand more about Directors Disqualification please give 4R a call on 0800 90 20 123.



Types of HMRC Debt

There are different types of HMRC debt these typically include VAT, PAYE and Corporation tax. If you need professional help get in touch today. It doesn't matter what position you are in we will be able to help you.

In April 2013, HMRC introduced the Real Time Information system (RTI), which instantly identifies

employer liability, and on the HMRC principle of paying your liabilities in full and when due means these become due when you run payroll, which has led to a number of companies experiencing difficulties in terms of cash flow.

I Am In Trouble What Can I Do?

We often get directors calling us frustrated at HMRC refusal to agree a repayment proposal, "why will HMRC not give me the time I need to repay the debt". It seems perverse that HMRC seek a compulsory liquidation of a company when a repayment plan is on offer. However if HMRC are not convinced by the business's cash flow they will want

to stop a business trading to mitigate further losses to the exchequer.

Therefore it is important that you plan HMRC payments, including VAT Corporation Tax, PAYE and business rates into your monthly expenses.

Tips

- If you can make a regular repayment within your current cash flow or monthly budget or expenses and the debt can be repaid in a reasonable time frame, say 12 months then you may be eligible for an INFORMAL solution like a TIME TO PAY ARRANGEMENT or TTPA.
- If you can make a regular repayment within your current cash flow or monthly budget or expenses but the debt cannot be repaid in a reasonable time frame of say 12 months but needs 24, 36 or 60 months then you need to seek a FORMAL solution like a COMPANY VOLUNTARY ARRANGEMENT or CVA.
- If you cannot afford to repay the HMRC debt at all then you need to URGENTLY consider either LIQUIDATION or a PRE PACK LIQUIDATION or seek the protection of the court by way of an ADMINISTRATION or a PRE PACK ADMINISTRATION order.

Actions for Late Payments

If you think you may struggle to pay in full or on time you should contact HMRC as they may allow you time to pay. If you wait until you receive a payment demand or notice of legal action interest will be added and you may incur additional penalties and surcharges, and your debt may also be referred to a collection agency.



What To Do If You Can't Pay

Again we like to advise you that it is best to contact a professional at this point as it will be far less complex when you have someone on your side that has dealt with HMRC many times before. There are a few strategies that you could use if you can't pay HMRC what you owe them, these include.

- Contact HMRC to make a TIME TO PAY ARRANGEMENT as soon as possible, this is a informal payment plan which allows you to pay your HMRC debt in instalments, its a short term solution which will allow you usually no more than 6 months to pay.

- If HMRC will not offer you a TTPA or your circumstances change and you can no longer make the payments this may be a sign that your company is insolvent and a more formal insolvency process may be more appropriate, click here to find out about what a CVA could mean for you or to find out about liquidation or administration.

If you ignore HMRC and bury your head in the sand you may find HMRC serve a personal liability notice making you personally liable or issue a Statutory Demand and subsequently a Winding up petition which could ultimately result in your company being shut down.

How to Get a TTP

HMRC has a department called the Business Payment Support Service (BPSS), which was set up to help companies who are struggling to pay their taxes. You can speak to them direct, but if you're thinking of asking for Time to Pay, give 4R Business Recovery a call on 0800 902 0123.

We have a lot of experience working directly with the HMRC and can give you the best possible chance of getting the agreement you need. We can talk to HMRC on your behalf giving you the ability to relax whilst we take care of things.

What Information Will They Need?

When contacting HMRC, it's important to have all the relevant information about your company to hand. This includes:

- Your tax reference
- Your name and address, and that of the business
- Information about the tax you're having trouble paying
- Information about the company's cash flow, assets and expenditure

- Reasons you can't pay
- What you've done to try to raise the money
- How much you can pay now
- How long you may need to pay the rest

A business recovery company can help you put this information together and it need not take too long either. We aim to set your mind at rest as quickly as possible and with years of experience and many successes we are the company to talk to.

Tips

- Ask for a Time to Pay Arrangement as soon as you realise you may have trouble paying. Don't give HMRC a reason to take legal action against your company.
- Ensure you have a cash flow forecast to allow you to plan payments to HMRC and other creditors
- Get professional advice as soon as possible. It's important to be sure the business is viable before pursuing a TTPA or CVA.
- Be realistic. If you pay 50% of the debt and then cannot pay the balance then the TTPA will be failed by HMRC and recovery action will recommence, in the meantime you have wasted valuable cash resources paying 50% and still confront a winding up petition. Do not over promise, be cautious and plan precisely what you can afford to pay. If a TTPA is going to fail then you would be better to make a decisive choice of a formal insolvency solution like a CVA or a pre pack liquidation from the start.

Asset Finance or Commercial Funding Solutions

You can raise a surprising amount of funding these days using your assets as security, there are new funding models coming to the market all the time and some can be single invoice funding lasting just 30 days or more long term commitments. The market is very competitive, so have you tried using some of your assets (i.e. - equipment, stock,

company vehicles, property, or even unpaid invoices) as leverage to obtain funding? Even if you have secured asset based loans or sales invoice factoring or other commercial funding agreements we can help restructure the secured lending to free up additional funds so call us today for further help.

Formal Insolvency Solutions to Resolving Debt

If you cannot repay the debt either because cash flow is insufficient then a formal insolvency solution may be required. We have summarised the three main solutions but please feel free to call us for a

consultations which is free and importantly totally confidential.

We will work with you devise an action plan that suits your circumstances.

Propose A Voluntary Arrangement:

A Voluntary Arrangement can either be a Company Voluntary Arrangement (CVA) or an Individual Voluntary Arrangement (IVA) and is an agreement or repayment proposal put to creditors to repay what can be realistically afforded by the individual or the business. A Voluntary Arrangement or VA is "nominated" by an Insolvency Practitioner who has to be satisfied that it is fair and realistic but importantly normally only repays a proportion of the debt over time, for example 25 - 50% over 5 years. The VA may include restructuring proposals such as rent reduction, lease surrender and financing staff redundancies. These are accepted by creditors

when they offer a better outcome for creditors than liquidation or bankruptcy. The arrangement becomes legally binding on all creditors if it is accepted by 75% or more by value of those creditors that vote.

The VA protects you from legal action by HMRC and often HMRC will stop all recovery action once advised that a VA is being prepared. The clear advantage is the directors keep control of the company and the debt becomes effectively an interest free loan with a generous discount.

Arrange a Liquidation and Bankruptcy

Liquidation in the case of a company or bankruptcy in the case of an individual results in the appointment of an Insolvency Practitioner who is licensed and regulated to liquidate company and individual assets and the sale proceeds [after debenture and fixed charge holders] after expenses are paid out to the creditors in an order of priority. Unsecured creditors normally receive a distribution but have no further claim against the company or the individual.

A pre pack liquidation refers to the practise of pre valuing the assets and pre selling them immediately the company has entered into liquidation normally to the previous shareholders or directors, a process commonly referred to as a Business Phoenix. Strict compliance rules have to be followed and we encourage you to phone us for further details.



Enter Administration or a Pre-pack Administration:

Administration: is a formal insolvency procedure in which the directors of your company would appoint an insolvency practitioner to serve as the administrator of the business with the goal of facilitating a recovery. When a business is at imminent risk of being wound up then Administration is in fact a way of protecting it. An Insolvency Practitioner can within 24 hours protect the company by making an application for an Administration Order from the court.

What is a Pre-Packaged Administration Sale: If a recovery seems unlikely then the directors or shareholders may want to consider a pre-package administration sale, in which the directors, shareholders or a third party or new company has the opportunity to purchase some or all of the assets from the Administrator shortly after it enters into Administration. There are strict compliance rules which have to be obeyed but in essence the deal is done in advance or pre administration to allow for the smooth transfer of the business to a new debt free company.

If your business is under threat,
contact 4R Business Recovery for an initial consultation completely FREE of charge. We will advise you on what is best for your business.

We are here to put your mind at rest and enable you to go forward in a positive frame of mind.

Simply call us today on **0800 902 0123** to speak with one of our expert advisors, or contact us through a simple form online via our website.



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