TECHNICAL UPDATE

Swearing a Statutory Declaration

Further to R3's communication to members on 27 March 2020, we would like to thank those members of the legal profession who have provided their contact details and confirmed that they would be willing to undertake a swearing, whilst abiding by the UK Government guidance in respect of social distancing

The contact list of solicitors is now available on the R3 website here.

The list will continuously be updated as and when further contact details are received. If you wish for your details to be removed, please inform Ben Luxford at R3 accordingly.

HMRC – COVID-19 – Insolvency Guidance

The R3 Technical Team and the Chair of R3's Tax working group have been in constant dialogue with HMRC about various COVID-19/tax issues identified by IPs.

Regular weekly calls have been set up to discuss issues raised by members of the profession and to highlight areas where IPs can help HMRC.

To streamline the issues or concerns process, we ask members to direct any issues with HMRC to R3 (Caroline or Ben) rather than directly to HMRC.

Communications from HMRC will be issued as decisions are made, or issues resolved. R3 will circulate communications upon receipt of them. Initial updates from HMRC are listed below.

VAT Claims

To reduce the administrative burdens on HMRC, the VAT team has asked IPs to refrain from sending multiple VAT 426 claims for relatively small amounts in respect of an individual case. Instead, IPs should try to combine those claims into one larger claim if possible.

VAT Deferral

HMRC has asked R3 to convey the following message to IPs:

"The Chancellor announced a VAT payments deferral on 20 March to support businesses with cashflow during the COVID-19 pandemic.

"This means that all businesses with a UK VAT registration have the option to defer VAT payments due between 20 March and 30 June. Businesses have until 31 March 2021 to pay any VAT deferred as a result of this announcement.

"Businesses do not need to inform HMRC if they wish to defer payment. They can opt into the deferral simply by not making VAT payments due in this period.

"Businesses who normally pay by direct debit should cancel their direct debit with their bank if they are unable to pay. This can be done online if they're registered for online banking. They should do so in sufficient time so that HMRC does not attempt to automatically collect on receipt of their VAT return.

"Should they wish, businesses can continue to make payments as normal during the deferral period. HMRC will also continue to pay repayment claims as normal. Businesses must continue to submit VAT returns as normal."

Voluntary Arrangements

A guidance note has been issued by HMRC confirming their approach with regards to arrangements where contributions cannot be made or post arrangement tax obligations cannot be met as a result of the impact of coronavirus .

The full guidance can be found here.

Joint statement by the ICAEW and IPA regarding measures to support IPs during the COVID-19 pandemic

Further to the statement issued by ICAEW last week, the ICAEW and IPA have issued a note outlining their approach to IPs facing practical difficulties when complying with regulatory obligations as a result of the Coronavirus.

The full statement can be found here.

Is the insolvency profession classed as a 'key sector'?

R3's view is that Insolvency Practitioners ('IPs') and key staff members working on appointments **DO** qualify for the key work provisions published on 19 March 2020 by the Department of Education under the guidance titled 'Guidance for schools, childcare providers, colleges and local authorities in England on maintaining educational provision'.

R3 asked the Insolvency Service ('IS') whether IPs and staff members were critical in response to COVID-19.

The Insolvency Service has identified key operational staff, covering those in Redundancy Payments Service, Estate Accounts and Official Receiver Services as delivering essential public services, which include court appointed officials, such as Official Receivers and their deputies. Insolvency Practitioners ('IPs') and key staff members covering similar functions may also be classified as key workers.

Please note that the decision on whether an IP or staff member is expected to come into work or not is a matter for the employer and for guidance to be followed.

The Coronavirus Job Retention Scheme

The Coronavirus Job Retention Scheme is a temporary scheme open to all UK employers for at least three months, backdated to 1 March 2020. It is designed to support employers whose operations have been severely affected by coronavirus (COVID-19). The Government guidance confirms that the scheme can be accessed by an **Administrator of a company**. The guidance issued by the UK Government can be found here.

The R3 Technical Team has published a guidance note on its understanding of the Scheme and how it works. The technical note can be found here.

Please note that this guidance note is not intended to be a statement of law or a substitute for specific professional or legal advice.

The Insolvency Service, Dear IP, Issue 93

Dear IP 93 provides further details for how to contact the Insolvency Service during the COVID-19 pandemic and confirmation that electronic signatures on requisitions will be accepted.

The Dear IP can be found here.

The PPF launches dedicated Restructuring and Insolvency bank account

The Pension Protection Fund has launched new banking details for Restructuring and Insolvency payments.

The dedicated bank account has been set up to streamline the payment process for a scheme once it has transferred to the PPF.

Details available here.

Section 120 forms

Section 120 forms (applications for a scheme to enter the PPF).

In the short term the PPF will NOT be able to process s.120 notices that are sent via the post as PPF staff are working remotely.

Please submit the notice via the PPF's website instead or via email s120validation@ppf.co.uk

Data protection and coronavirus: what you need to know

The Information Commissioners Office (ICO) recognises the unprecedented challenges we are all facing during the Coronavirus (COVID-19) pandemic and have published a list of answers and questions being asked of them. Available here.

RICS - Valuation Practice Alert

Announcement from RICS to its professionals available here.

"Any restrictions of information and the ability to inspect need to be made clear in the terms of engagement, agreed with the client and clearly stated in the report. Valuers need also to clearly state and, again, agree with the client, any valuation assumptions that are being made as a consequence of restricted access and/or valuation information. If the valuer considers that it is not possible to provide a valuation on a restricted basis, the instruction should be declined."

Tax abuse using company insolvencies

The Finance Bill 2019-21 was published on 18 March 2020 and can be found here.

While Schedule 12, section 97 "Joint and several liability of company directors etc." confirms this legislation is due to come into effect, the exact date is unknown.

Previously, R3 highlighted specific concerns regarding the applicability of the legislation, for example the inclusion of an MVL as an insolvency procedure. The published legislation confirms that MVLs are now excluded but only on the basis that debts are paid within 12 months of appointment. If debts are not paid within 12 months, an MVL can be captured and a notice of liability can be issued accordingly. HMRC must withdraw the notice if the debts in the MVL are paid after 12 months. R3 would hope that HMRC contact the IP dealing with the MVL requesting an update before issuing a notice to any individual.
R3 is waiting for HMRC's guidance on the legislation for review.

Update from Mr Justice Snowden, Vice Chancellor of the Country Palatine of Lancaster.

Position Summary and Guides for Urgent Applications can be viewed here.

"An Emergency Practice Direction for insolvency matters is in preparation which will seek to address the issue of CE-filing of Notices of Intention to appoint Administrators and Notices of Appointment of Administrators. It will also provide a structure for the hearing of winding up petitions in the forthcoming weeks, subject to local variations. I will be publishing details of those arrangements as soon as they are to hand, but practitioners should assume that such insolvency lists will be proceeding by a remote hearing unless notified to the contrary."

SCOTLAND

Accountant in Bankruptcy (AiB)

Guidance on how the AiB expect trustees to deal with PTD debtor contributions and discharges in the weeks and months ahead was published on 20 March 2020. Available here.

The AiB has implemented a number of changes to normal business process and policies as a consequence of COVID-19. Change available here.

Scottish Courts and Tribunals Service

An update on Court arrangements can be found here.

COVID-19 CONTINGENCY ARRANGEMENTS

As a reminder for all COVID 19 technical related announcements, please visit our designated page here or connect with Ben Luxford on LinkedIn for updates.

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