

### **Business Debt Factsheet**

- Most the debts included in this factsheet are based on small businesses and self-employed individuals at the time they stop trading and how to deal with it from that instance.

#### **Debts regarding Income Tax Arrears**

- When completing a tax return be sure the tax debt figure is right. If this is not the case you should contact HMRC to discuss the right liability.
- If a tax return is not completed and sent to HMRC, the tax debt will be estimated and you will subsequently be sent the determination figure.
- If you disagree with the determination you should complete and send your tax return immediately.
- In the case you are late submitting your tax return and do so after 31<sup>st</sup> January, it is likely a charge of £100 will be added to the tax debt.
- If no tax return is submitted altogether you will be charged an extra £100, which will then be included after the 31<sup>st</sup> July.
- Any interest that is added by the HMRC will be done at a set rate.
- If you communicate with the HMRC they may not add interest if you come to an agreement about payment.

#### **How can the tax be collected?**

- If you can speak to HMRC and try to make an arrangement with them to pay the debt as soon as possible.
- Treat any tax debts as a priority.
- If you offer the tax collector an installment plan to pay off the debt it will usually have to be covered between three and six months.

#### **What if I am unemployed?**

- You can ask the tax collector for a moratorium, which is to put a suspension on the debt until you are at least working again.
- Usually you will be given three months in which to become employed again.

### **Use of Bailiffs**

- Collectors can use Bailiffs without a court order.
- In the case of a trading business you cannot prevent a bailiff from entering the premises.
- They can go into your home to collect goods but this is not often the case.
- Usually, you will be told which items you can keep and you will be asked to sign this document.
- The items listed will only stay in your possession if you begin paying off the debt; otherwise Bailiffs have authorization to take them.

### **If the money is not returned, what's next?**

- The collector may then try and sue you in the county court for the money in question.
- You should respond to any documents you receive or claims.
- If you think you can you should attempt to make an offer in a way of a payment plan to the collector.
- Provide the court with all your financial information and budget sheets so that a fair amount is decided before an order is made.
- If the court deems your offering fair they can force the collector to agree to it.
- As long as you then keep to those payments, the collector can take no further action against you.

### **If the debt is below £2000:**

- In this case the HMRC will try to recover any arrears by using the Magistrates Court Proceedings.
- This is known as Summary Proceedings.
- You should make an offering to your collector and if the collector agrees, the magistrates can further accept this at the hearing.
- If no agreement was made, take all copies of any payments you made with you to the hearing.
- Provide the court with your current finances and ask them to give you time to pay the arrears off through installments that are affordable.
- From this point you must pay what the magistrates order or they have the right to use private bailiffs.
- Further on top of that they can, if they think you are deliberately not paying anything towards your debts they can summon you to court and have a warrant for your imprisonment.

**The collector has one final option:**

- If the debt is an excess of £750 they could make you bankrupt.
- Be sure to show your creditor if applicable you have no assets, no income and your house is worth less than the mortgage.
- Doing this would make it less worthwhile for them to declare you bankrupt.

**What Interests and Charges can be added to my tax debt?**

**HMRC can add interest for any of the following:**

- Late payment
- Not filing your tax return under self-assessment.
- Filing a false return.

**Is there a complaints procedure?**

- The HMRC will have a complaints manager in your relevant area, which you can write to.
- In the case you are not happy with the managers response you can submit a further complaint with the director for your relevant area.
- On top of this is the adjudicator's office who work independently from the HMRC and will take a look into your complaint.

**Business Debt regarding VAT**

- You will only have to pay VAT if the annual turnover of a business is above the relevant threshold.
- It is worked out by the amount of VAT on your sales minus the VAT on purchased goods or services related to the business.
- You must provide all your VAT returns and if the VAT bill contains an amount you think is incorrect, there is a 30-day time period in which you can have it relooked at.
- In a further instance you can appeal to the VAT tribunal.
- Any outstanding payments due are to be completed before the next VAT returns are due the following quarter.
- If you no longer qualify to pay VAT due to low annual turnover and have outstanding payments, you can negotiate a payment plan to pay it off.
- It is possible for extra charges to be added onto the VAT bill for any late payments.

### **HMRC Bailiff Use**

- They can use Bailiffs without a court order.
- Any goods can be taken from your premises.
- A grey area consists here whether or not Bailiffs can force an entry into a premise.
- If Bailiffs are not able to recover the money owed then the next step HMRC could take is to declare you bankrupt.

### **Business Debts regarding National Insurance arrears**

- HMRC National Insurance Contributions Office is in charge of dealing with any national insurance contributions.

### **3 Classes make up the contribution system:**

- Class 1 ó employee payments unless the earnings are of a low amount.
- Class 2 ó self-employed payments at a flat rate per week unless the earnings are of a low amount.
- Class 4 ó In addition to class 2 are further self-employed payments in the case that the earnings are above the personal tax allowance for the year.

### **Extra Info:**

- Inform HMRC if any of the above changes for example being no longer self-employed.
- Class 2 contributions are negotiable depending on how much you can afford to pay off the arrears.
- HMRC can potentially take you to a county court over your arrears if they reject your proposal of payment.
- If the arrears total £750 or more you can be made bankrupt.
- Not paying your class 2 contributions is in fact a criminal offence.
- There is a chance you may be fined for not paying on time.

### **Business Debt regarding Rent Arrears**

- If you have leased a building for your business, even if your trading has ceased and the keys returned to the landlord, your terms and conditions may still mean you need to keep up with the payments toward the lease.
- In the case you have a monthly tenancy agreement, it is important to give the appropriate notice to the landlord before simply leaving to be sure of preventing rent arrears.

### **Long Term Leasing Rent Arrears:**

- A lease bought for a number of years could make you liable to continue paying the rent up to the date the lease is completed.
- If your landlord or yourself can find a new tenant to occupy the premises and take over the lease then you can end your agreement. This will need to be included in the original terms of the contract.
- A landlord evicting tenants from a premise will terminate a lease contract and you will therefore not have to pay any arrears.
- There could be an option for you to sublet the premises if you cannot afford the rent you are still liable to pay.
- You can negotiate with the landlord and ask for a surrender of the lease but the landlord is unlikely to do so unless they have someone to take over the tenancy.

### **Can a Landlord send Bailiffs to collect rent arrears?**

- This can be done without a court order.
- Bailiffs will only be able to take equipment or goods at the premise in question.
- A home visit is not permitted.
- If all trading has stopped the debt may be treated as secondary.
- From this point you should come to an agreement with your landlord for a payment settlement.

### **Business Related Equipment Leasing**

- When leasing equipment for your businesses make sure you clarify in the agreement whether or not you can hold onto the goods when the lease is completed.
- In some cases, even if you return the good you will have to pay the lease until the contract ends.
- Often terms will change and debts can be reduced if you return the goods to the leasing company.
- In the case that the goods are no longer needed, you should communicate with the leasing company and negotiate a new payment plan.
- If you are no longer using the equipment any debt for the goods can be treated as secondary debt.

### **Business Debts regarding Accountancy Bills**

- It is not uncommon for an accountant to neglect doing your tax return if there are unpaid bills.
- In some cases they may refuse to hand back your books.
- Neglecting to pay your accountant could lead to further problems with HMRC.
- In the case your accountant fails to give your books back, you should provide HMRC with any figures you can from your own records.
- Communicate with your accountant who will know your financial position and see if you can come to an agreement or settlement figure to get your books back.
- If you still cannot retrieve them, inform HMRC of the ongoing issue.

### **Business arrears regarding gas and electricity**

- Any debts on a business premises are transferrable to a home account.
- If the debt is transferred to your home account from your business premises then you are liable to be disconnected at your home for the arrears.
- You should make an offering to the gas and electric company for a payment plan to reduce the arrears and continue paying the current bill on the home account.



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### **Business arrears regarding water rates**

- Water rate arrears differ between a home and a business premises.
- At a business premises the water company can simply disconnect you.
- You should communicate with the water company and come to a payment plan you can afford to begin paying off the debt while continuing to pay your current bill.

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