



Cessation of tax clearance in Members' Voluntary Liquidations

What is changing?

As part of a process change, and with immediate effect, HMRC will no longer provide pre and/or post tax clearances in Members' Voluntary Liquidation (MVL) cases and IPs should now close cases without tax clearance subject to their professional judgement. This means any requests from insolvency practitioners for clearance already received will not be responded to, and any future requests will not be actioned. This will include requests covering all heads of duty and will also cover all insolvency types.

Why has this decision been made?

There is no statutory or best practice framework for HMRC to provide tax clearance. Rather, it was a practice which arose among IPs seeking assurance from HMRC that tax liabilities had been dealt with appropriately, particularly tax liabilities arising during the liquidation.

How can liquidators in an MVL be assured that the company's tax liabilities are accurate?

Insolvency legislation requires directors to make a sworn declaration of the company's assets and liabilities, confirming liabilities plus costs and interest can be met in full in the next 12 months. Directors need to be satisfied that the company's liabilities, including tax liabilities, are stated accurately in order to confidently make this sworn declaration.

Liquidators, company financial advisors, directors and shareholders customarily work closely together in MVL cases to ensure the company's affairs are wound up as efficiently as possible. Therefore, although the IP may have had no direct knowledge or control over the company in the

pre-liquidation period, HMRC would expect IPs should be in a position to establish an accurate tax position through working with the company's officers and advisors. If any HMRC compliance checks are in progress at the time of the liquidator's appointment, the liquidator will need to work with HMRC to conclude the compliance check before they can cease to act. Similarly, any outstanding pre-appointment returns will need to be filed.

HMRC will continue to submit claims for pre-insolvency debt in accordance with statutory requirements which will also be an additional source of information for liquidators to take into account.

In relation to tax liabilities arising post-liquidation, the liquidator is in control during this period. They will be able to ascertain with confidence that all post-appointment tax returns and information necessary have been submitted to HMRC, and that any liabilities due to HMRC have been paid.

What compliance checks will HMRC undertake?

HMRC's compliance approach in MVLs is not changing. Compliance checks in progress at the point of liquidation will continue, and new compliance checks may be opened in relation to pre-appointment or post-appointment tax returns where HMRC has a concern that the return may be inaccurate. Where HMRC's EIS find that returns or payments have not been made, they will pursue these and penalties or interest may be charged.

Statutory Interest

EIS will continue to ensure that statutory interest is calculated correctly and once paid HMRC will be of the opinion that there are no further matters outstanding and will close their MVL case.

MVL Mailbox

Please continue to use the MVL Mailbox for all other MVL Queries, at: mvl.teameisw@hmrc.gov.uk

To help us progress your requests quickly, please ensure that only one request is emailed to us, refrain from sending multiple chasers and clearly state in the subject line the reason for your email e.g.

- For Statutory Interest please use "Stat Interest (Name of Insolvency Case)"
- For repayments please use "Repayment (Name of Insolvency Case)"
- For Rule 14.44 The Insolvency (England and Wales) Rules 2016 please use "Rule 14.44 calculations (Name of Insolvency Case)"
- For Rule 7.22 The Insolvency (Scotland) (Receivership and Winding up) Rules 2018 please use "Rule 7.22 Calculations (Name of Insolvency Case)"

We are working hard to ensure responses are provided as soon as possible. By sending only one request and ensuring that email subject lines are used correctly, you can avoid further delays.

Further questions

If you have any questions about this Insolvency Bulletin, could you please contact R3 or your representative group who will take them forward with HMRC.