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Newman & Partners

Licensed Insolvency Practitioners

RECOVERY & REVIVAL BULLETIN

Welcome to the latest issue of our Recovery and Revival Bulletin, designed to keep you up-to-date on insolvency matters that may be of interest to you. If you have any feedback on this bulletin, or would like to know more about our services or how we can help you, please contact us on **020 8357 2727** or at **insolvency@newmanandpartners.co.uk**

CVL vs. MVL: The right choice for your client

As an accountant, you are a trusted adviser when your clients face challenging financial circumstances or changes in their business. One area where your guidance is invaluable is helping clients choose the right liquidation route. This often comes down to deciding between a Creditors' Voluntary Liquidation (CVL) and a Members' Voluntary Liquidation (MVL). Here's a clear, jargon-free guide to help you support your clients in making an informed decision.

What are a Creditors' Voluntary Liquidations?

A CVL is a process used when a company is insolvent – meaning it cannot pay its debts as they fall due, or its liabilities exceed its assets. This route allows directors to take control of the situation by voluntarily closing the company rather than waiting for creditors to force action.

Key features of a CVL include:

- **Purpose:** To close an insolvent company and settle as many debts as possible.
- **Process:** A licensed insolvency practitioner is appointed to manage the liquidation, realise the company's assets, and distribute proceeds to creditors in the order of priority set by law.
- **Outcome:** The company is formally dissolved, and directors meet their legal obligations by addressing creditors' claims.

A CVL is often seen as a proactive and responsible way for directors to address financial distress. It minimises creditor losses while reducing the risk of wrongful trading claims.

What are a Members' Voluntary Liquidations?

An MVL, on the other hand, is a route for solvent companies that are being wound up, typically because the directors no longer wish to continue trading. This may happen due to retirement, restructuring, or simply because the business has fulfilled its purpose.

The key features of an MVL include:

- **Purpose:** To close a solvent company and distribute the remaining assets to shareholders in a tax-efficient manner.
- **Process:** The directors must sign a solvency declaration, confirming the company can pay its debts (plus interest) within 12 months. An insolvency practitioner is appointed to manage the liquidation and distribute surplus funds to shareholders.
- **Outcome:** The company is dissolved after all debts are settled and assets are distributed.

The MVL route is particularly attractive because distributions to shareholders are often treated as capital rather than income, meaning they may qualify for Business Asset Disposal Relief (formerly Entrepreneurs' Relief), reducing the tax payable.

The differences (in brief):

Aspect	Creditors' Voluntary Liquidations (CVL)	Members' Voluntary Liquidations (MVL)
Solvency	For insolvent companies	For solvent companies
Purpose	To settle debts and close the company	Close the company and distribute assets to shareholders
Tax implications	None-specific to the process	Tax-efficient distributions to shareholders
Legal requirements	Directors must act to avoid worsening creditor losses	Directors must declare solvency
Control	Creditor-focused, with limited shareholder input	Shareholder-focused, efficient asset distribution

How to advise your clients

If your client's company is insolvent and unable to meet its financial obligations, a CVL may be the best way to address the situation responsibly. It ensures compliance with directors' duties under insolvency law while allowing for an orderly wind-down.

Signs your client might need a CVL include:

- Persistent cashflow problems.
- Creditor pressure or County Court Judgments (CCJs).
- Mounting arrears with HMRC.

If the company is solvent, on the other hand, but the directors want to close it for personal or strategic reasons, an MVL is ideal. It not only provides a formal closure process but also allows shareholders to benefit from potential tax reliefs.

Situations where an MVL may suit your client include:

- Retirement of the directors.
- Group restructuring.
- A business sale, where the trading company is no longer needed.

As an accountant, you rightly consider the following matters:

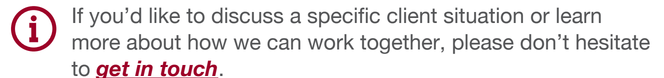
1. **Misjudging solvency:** If your client is unsure about their solvency, advise them to seek professional advice early. Mis-declaring solvency in an MVL can lead to serious legal consequences.

2. **Delaying action:** Waiting too long to address insolvency can worsen creditor losses and expose directors to personal liability. Encourage your clients to act promptly.

3. **Tax considerations:** If your client is considering an MVL, remind them of the tax implications, to maximise reliefs and avoid unexpected liabilities.

If you're ever in doubt, partnering with an experienced insolvency practitioner can provide additional expertise and support.

We can help your clients achieve the best possible outcome, whether that's closing a struggling business or wrapping up a successful venture.



If you'd like to discuss a specific client situation or learn more about how we can work together, please don't hesitate to ***get in touch***.

How tax debts impact liquidation and restructuring

Tax debts can have varying impacts depending on your client's circumstances. Whether in liquidation or restructuring, they play a crucial role and require careful consideration. As experts within insolvency, we've prepared this guide to help you navigate the management of tax debts in both scenarios effectively.

Tax debts in liquidation

Tax debts, such as VAT, PAYE, and Corporation Tax, are often among the largest liabilities when a company enters liquidation.

Since HM Revenue and Customs (HMRC) holds preferential creditor status over some of them, those are prioritised in the distribution of remaining assets, which can significantly impact other creditors.

If HMRC suspects misconduct – such as failing to pay taxes despite having funds – it may pursue directors through a Personal Liability Notice (PLN). This makes it vital for directors to act quickly and responsibly to minimise risks.

A Creditors' Voluntary Liquidation (CVL) is often the best option for insolvent companies, enabling an orderly closure while ensuring compliance with legal obligations.

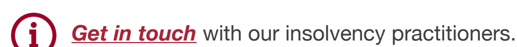
Delaying action increases the likelihood of HMRC enforcement, such as issuing a winding-up petition, so it is important to advise your clients to address tax debts as soon as possible.

Tax debts in restructuring

For viable businesses with tax liabilities, restructuring can provide a lifeline. HMRC is usually supportive of recovery efforts if businesses demonstrate transparency and a genuine intention to repay their debts. Mechanisms such as Time to Pay (TTP) arrangements and Company Voluntary Arrangements (CVAs) can be highly effective in these situations.

- **Time to Pay TTP arrangements:** These allow businesses to spread tax payments over an agreed period, easing cashflow pressures.
- **Company Voluntary Arrangements (CVAs):** These formal agreements restructure debts, including those owed to HMRC, while allowing the company to continue trading.

Early intervention, transparency, and professional advice are crucial for navigating these challenges effectively. If your client is facing tax debt issues, we can help.



Get in touch with our insolvency practitioners.

Personal guarantees and director liabilities in insolvency: A guide for accountants

As an accountant, you are often the first point of contact for directors seeking advice during times of financial uncertainty. Your clients rely on you not only for clarity around the numbers but also for guidance on legal and practical matters that impact their business and personal lives.

Among the most significant issues directors face in insolvency situations are personal guarantees and their wider liabilities. These can have far-reaching consequences, including the potential loss of personal assets and even legal action.

Personal guarantees during insolvency proceedings

A personal guarantee is a legal commitment made by a director or business owner to repay a specific debt if the company cannot. They are often required by lenders, landlords, or suppliers to reduce their risk when dealing with a company. Here are some key points to note about personal guarantees:

- **Unsecured vs. secured guarantees:** Some guarantees may involve the director's personal assets, such as property, while others may not.
- **Enforceability:** Personal guarantees are legally binding, and creditors can enforce them even if the company is in liquidation.
- **Joint and several liability:** If multiple directors sign a guarantee, creditors can pursue one or all guarantors for the full amount owed.

Personal guarantees often come as a shock to directors who may not fully understand their implications when signing. If insolvency becomes unavoidable, they may find themselves personally liable for significant debts.

Director liabilities in insolvency

When a company becomes insolvent, directors have legal duties under the Insolvency Act 1986 to act in the best interests of creditors. Failure to meet these duties can expose directors to personal liability.

Key risks include:

- Wrongful trading: If a director continues trading while knowing (or they should have known) that insolvency was unavoidable, they can be held personally liable for increasing creditor losses.
- Fraudulent trading: Deliberate actions to defraud creditors, such as transferring assets below market value, can result in personal liability and even criminal prosecution.
- Breach of fiduciary duties: Directors must prioritise creditors' interests during insolvency. Failure to do so can lead to personal liability claims.

Advising directors to seek legal and insolvency advice is critical in helping them fulfil their duties and avoid unnecessary risks.

What can accountants do to help?

As an accountant, your role in supporting directors through insolvency is vital. Here are some practical steps you can take:

1. **Identify personal guarantees early:** Review loan agreements, leases, or supplier contracts to determine if personal guarantees are in place. Ensure directors understand the potential consequences.
2. **Encourage early action:** Delaying action can worsen creditor losses and increase the risk of personal liability. Encourage your clients to seek advice at the first signs of financial distress.
3. **Highlight directors' duties:** Explain the importance of acting in creditors' best interests and avoiding wrongful trading. This can protect directors from unnecessary exposure.
4. **Collaborate with insolvency practitioners:** Working with an insolvency expert ensures your clients receive specialist advice and support, particularly around managing personal guarantees and liabilities.

Having said that, personal guarantees and director liabilities are complex issues that can have financial and legal consequences.

By identifying potential risks early and working alongside insolvency professionals, you can help your clients navigate insolvency with confidence and minimise personal exposure.

If you or your clients need advice on managing personal guarantees or director liabilities, please ***get in touch***. Together, we can ensure the best possible outcome in challenging circumstances.

CAREFUL CONSIDERATION IS NEEDED BEFORE TAKING OUT ANY FORM OF FINANCE AND SPECIALIST ADVICE SHOULD BE SOUGHT. IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT US.

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The content of this bulletin should not be considered by any reader to comprise full proper legal advice and should not be relied upon.