

# Newman & Partners

Licensed Insolvency Practitioners

## FOCUS ON INSOLVENCY BULLETIN

Welcome to the latest issue of our Focus on Insolvency 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](mailto:insolvency@newmanandpartners.co.uk)

### Those made redundant due to insolvency might have paid too much tax

A tax reform group has issued a warning for people who have been made redundant because the firm they worked for became insolvent, suggesting they should check their records because they might have paid too much tax on their redundancy payments.



The Low Incomes Tax Reform Group (LITRG) is recommending that employees take another look at their redundancy payments and to submit claims if they think they have overpaid any tax. Under the insolvency provisions of the Employment Rights Act, workers who are made redundant because their employer goes out of business can claim a protective award from the Redundancy Payment Office (RPO) - operated by the Insolvency Service - if their employer cannot or will not make a redundancy payment to them.

However, as the RPO is not an employer and therefore does not operate a tax code on the payment, it means they only deduct basic rate tax which results in the employee probably paying too much. Those who have worked for their employer for two years or more are usually eligible for a statutory redundancy payment (tax-free up to a limit of £30,000) so most people getting a payment from the RPO should not pay any tax, though the package they receive may contain taxable elements, such as holiday pay or unpaid salary.

Unfortunately, upon receiving information about a redundancy payment from the Insolvency Service or RPO, HM Revenue and Customs (HMRC) is not able to identify whether or not any part of this is non-taxable. As a result, the full redundancy payment is treated as taxable and it is all included in the individual's P800 Tax Calculation. There is no way of knowing whether or not it is correct, so those in doubt should seek professional advice.

# Insolvent individuals choosing IVAs

According to the latest figures from the Insolvency Service, the number of private individuals becoming insolvent has risen by 4 per cent since the beginning of 2013, driven by an increase in individual voluntary arrangements (IVAs).

Although just over 26,000 people became insolvent in England and Wales in the third quarter of 2013, the number is still around 7 per cent lower than during the same period in 2012. Interestingly, two other types of formal personal insolvency, debt relief orders (DROs) and bankruptcies have continued to fall.

Almost 77,000 people have become insolvent this year so far. If these figures stay much the same as we continue into winter, it will still mean that the overall total for this year comes in lower than the 2012 figure of 109,000 people who became insolvent - the lowest annual figure recorded since 2008.

Within the new figures however, there were 13,394 IVAs recorded, defining a 6 per cent increase on the

same period last year and the highest number seen in more than three years. In the third quarter there were 6,004 bankruptcies, 6,632 DROs and 13,394 IVAs recorded.

DROs, aimed at people with debt of less than £15,000 but who have no realistic prospect of paying it off, were down by 15 per cent on 2012 and the lowest figure seen for almost three years.

Some have attributed the reason for the rise in IVAs as a sign that those who were previously juggling their debts are now finding it too much of a squeeze on their income, which has compelled them to reach an arrangement with their creditors. Others say the rise could be caused by a lack of confidence in the economic recovery.



At Newman and Partners Insolvency, our experts can offer help and advice on a range of insolvency issues including the solutions available to your clients and their business.

For more information, please contact us.

# British Property Foundation (BPF) issues warning to landlords over pre-packs

A recent statement by the British Property Foundation (BPF) has warned landlords to take extra security from tenants, including guarantees from parent companies and extra deposits of up to three months' rent, in order to protect themselves against increasing manipulation of the insolvency system.

The BPF defended the unprecedented action and released the warning reluctantly, largely due to the extra cost it would undoubtedly place on occupiers, and urged the government to act quickly to restore creditors' faith in the rules governing insolvency. The statement included advice to landlords to ensure that, when arranging commercial leases with a group of companies that they take a guarantee from the parent company to protect against the subsidiary being put into administration.

Also included was the suggestion that landlords should perhaps consider taking an extra three month's rent from tenants as a deposit, given the widespread use of the tactical timing of insolvencies and the losses that this creates. This is because current insolvency rules stipulate that

if a business goes into administration immediately after rent quarter day, it can continue to use the property for free for up to three months without paying any rent.

A BPF spokesman said that in the last 10 years landlords have become even more flexible with tenants but unfortunately there have been some bad examples too whereby small landlords and pensioners have lost their savings via dubious pre-packs, while the owners of the companies that use them to strategically restructure their businesses lose nothing, and gain a competitive advantage over their opponents.

Pre-packs are where negotiations for the sale of a company's business and assets take place prior to administration and the

sale is executed immediately upon the appointment of an administrator. This option for business rescue has grown in popularity; in 2012 there were an estimated 728 pre-pack deals recorded which accounted for almost 30 per cent of all administrations. Though pre-packs are seen as an important way of making sure that employees and contracts are saved and the value of the business is protected, it is the procedure and its transparency which has been called into question.

Our expert team at Newman and Partners Insolvency can advise your clients on all aspects of debt and insolvency, including landlords and their actions regarding pre-packs.

For more information, please contact us.

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