

HMRC toughens up post-pandemic



The insolvency protection introduced for businesses during the pandemic prevented creditors from issuing winding-up petitions against companies for unpaid debts. This included HMRC, which historically had often been quick to issue winding-up petitions for unpaid tax.

The restrictions on winding-up petitions were substantially relaxed on 1 October 2021, and were completely removed on 1 April 2022. Although winding-up petitions issued by HMRC only accounted for 8% of all petitions between November 2021 and March 2022, this figure then increased dramatically when all restrictions were lifted. In April 2022, HMRC was responsible for 20% of petitions, increasing to almost half of all winding-up petitions issued in June 2022.

Preferential status

HMRC's harder stance towards recovering unpaid tax may in part be due to their elevated status as secondary preferential creditor, which took effect on 1 December 2020. The impact of this was not seen immediately, as the country was in the grip of the pandemic, with a complete prohibition on winding-up petitions. It is only in the last few months that HMRC has started to wake up and take the more aggressive action that it used to be known for. The effect of HMRC being a secondary preferential creditor is that it will be repaid before unsecured and floating charge creditors in relation to certain outstanding tax debts, including VAT, PAYE income tax and employee National Insurance contributions. This means there is a greater benefit to HMRC in pursuing winding-up action, as they have a greater chance of being repaid more than before 1 December 2020.



Warning signs that HMRC may take action

Companies that have unpaid tax debts should be alert to correspondence received from HMRC that threatens a winding-up petition. The standard wording used is:

"If you do not make payment, in full, within seven days of the date of this letter I will instruct the Solicitor of HM Revenue & Customs to present a petition to the High Court to wind up the company without further warning, on the grounds that the company is unable to pay its debts."

A warning in bold is usually included saying *"If the company does not pay, the next action will be the filing of the petition. No further warnings will be given."* This correspondence should not be ignored, and immediate contact should be made with HMRC to discuss and agree a repayment proposal or Time to Pay. We have advised companies where a reasonable repayment proposal (keeping current liabilities up to date and paying down the arrears over the next 12 months) was rejected by HMRC and a week later a winding-up petition was issued.

How we can help

If you are concerned about HMRC debt, have received a letter threatening a winding-up petition, or have been served with a petition then we can help and advise on next steps – the key is to act quickly. [Get in touch](#) with us or contact Joanna Ford on joanna.ford@cripps.co.uk.

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