

**1 HMRC debts: priority on insolvency**

- (1) In section 386 of the Insolvency Act 1986 (preferential debts) –
  - (a) in subsection (1) after “other deposits” insert “; certain HMRC debts”;
  - (b) in subsection (1B) for “or 15BB” substitute “, 15BB or 15D”.
- (2) In Schedule 6 to that Act (preferential debts) after paragraph 15C insert –

*“Category 9: Certain HMRC debts*

- 15D (1) Any amount owed at the relevant date by the debtor to the Commissioners in respect of –
    - (a) value added tax, or
    - (b) a relevant deduction.
  - (2) For the purposes of sub-paragraph (1)(b) a deduction is “relevant” if –
    - (a) the debtor is required, by virtue of an enactment, to make the deduction from a payment made to another person and to pay an amount to the Commissioners on account of the deduction,
    - (b) the payment to the Commissioners is credited against any liabilities of the other person, and
    - (c) the deduction is of a kind specified in regulations made by the Commissioners by statutory instrument.
  - (3) In this paragraph “the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs.
  - (4) Regulations under this paragraph –
    - (a) may contain transitional provision;
    - (b) are subject to annulment in pursuance of a resolution of the House of Commons.”
- (3) In section 129(2) of the Bankruptcy (Scotland) Act 2016 (asp 21) (priority in distribution: meaning of certain expressions) in the definition of “secondary preferred debt” for “paragraph 7 or 8” substitute “any of paragraphs 7 to 8A”.
  - (4) In Part 1 of Schedule 3 to that Act (list of preferred debts) after paragraph 8 insert –

*“Certain HMRC debts*

- 8A (1) Any amount owed at the relevant date by the debtor to the Commissioners in respect of –
  - (a) value added tax, or
  - (b) a relevant deduction.
- (2) For the purposes of sub-paragraph (1)(b) a deduction is “relevant” if –
  - (a) the debtor is required, by virtue of an enactment, to make the deduction from a payment made to another person and to pay an amount to the Commissioners on account of the deduction,
  - (b) the payment to the Commissioners is credited against any liabilities of the other person, and

(c) the deduction is of a kind specified in regulations made by the Commissioners under paragraph 15D of Schedule 6 to the Insolvency Act 1986.

(3) In this paragraph “the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs.”

- (5) This section comes into force on 6 April 2020.
- (6) The amendments made by this section do not apply in relation to any case where the relevant date is before 6 April 2020.