HM Treasury

# Budget 2018
# Protecting your taxes in insolvency

- **Taxes paid by employees and customers do not always go to funding public services if the business temporarily holding them goes into insolvency before passing them on to HMRC. Instead, they often go towards paying off the company's debts to other creditors.**
- **From 6 April 2020, the government will change the rules so that when a business enters insolvency, more of the taxes paid in good faith by its employees and customers but held in trust by the business go to fund public services as intended, rather than being distributed to other creditors such as financial institutions.**

1. When a company goes insolvent, the order of distribution for assets from that company is set by law. Currently, many creditors other than HMRC have a higher priority claim on the assets of an insolvent company – even for taxes paid by employees and customers that the business holds temporarily before passing them onto the government.
2. From April 2020, HMRC will have greater priority to recover taxes paid by employees and customers.[1] This will ensure that an extra £185 million in taxes already paid each year reaches the government.
3. The rules will remain unchanged for taxes owed by the business, and HMRC will remain below other preferential creditors, such as the Redundancy Payment Service (see table overleaf).
4. Although this change will affect financial institutions, the government does not expect it to have a material impact on lending, and the Office for Budget Responsibility made no adjustment to its forecast as a result of this measure. This is because:
   - financial institutions will remain above HMRC in the creditor hierarchy for fixed charges they hold over assets, and
   - the debts they will no longer recover are a very small fraction of total lending. Bank lending to small and medium enterprises alone was £57 billion in the 12 months to July 2018, compared to an estimated yield of £185 million a year from this measure
5. Other unsecured creditors – such as suppliers – are usually unable to recover any of their debts and so most will be unaffected. They currently only recover 4% of debts owed on average.
6. Where appropriate, HMRC will also continue to offer Time to Pay (TTP) arrangements to help viable businesses with tax debt avoid entering insolvency.

[1] This includes Value Added Tax, Pay-As-You-Earn Income Tax, employee National Insurance contributions and Construction Industry Scheme deductions

| Type of Creditor and rank | Examples | Average debt recovered (current) | Average debt recovered (from 2020) |
|---|---|---|---|
| 1. Secured Creditors (Holders of Fixed Charges) | Financial institutions and other lenders who hold title over fixed assets, such as property or machinery. | 36% | 36% |
| 2. Insolvency Practitioners | Those who receive fees for administering the distribution of assets to creditors. | As charged | As charged |
| 3. Preferential Creditors | Claims by the Redundancy Payment Service (RPS) and Financial Services Compensation Scheme (FSCS) on behalf of employees and customers (to statutory limits).<br><br>**From 2020, HMRC will become a secondary preferential creditor for taxes held on behalf of employees and customers.** | 83% | 83% for existing preferential creditors;<br><br>14% for HMRC |
| 4. Secured Creditors (Holders of Floating Charges) | Financial institutions and other lenders who secure credit against variable assets such as stocks, raw materials or cash. | 36% | Less than 36% |
| 5. Unsecured Creditors | All remaining creditors, including HMRC, suppliers, contractors, landlords and customers. | 4% | Less than 4% |
| 6. Shareholders | Any remaining assets. | N/A | N/A |