Finance Act 2020

2020 CHAPTER 14

PART 4

MISCELLANEOUS AND FINAL

Insolvency

98   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) In sub-paragraph (1), the reference to "any amount" is subject to any regulations under section 99(1) of the Finance Act 2020.

      (3) 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 under section 99(3) of the Finance Act 2020.

(4) In this paragraph "the Commissioners" means the Commissioners for Her Majesty's Revenue and Customs."

(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) In sub-paragraph (1), the reference to "any amount" is subject to any regulations under section 99(1) of the Finance Act 2020.

     (3) 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 under section 99(3) of the Finance Act 2020.

     (4) In this paragraph "the Commissioners" means the Commissioners for Her Majesty's Revenue and Customs."

(5) In Article 346 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)) (preferential debts)—
     (a)   in paragraph (1) after "other deposits" insert " ; certain HMRC debts ";
     (b)   in paragraph (1B) for "or 20" substitute " , 20 or 22 ".

(6) In Schedule 4 to that Order (preferential debts) after paragraph 21 insert—

Category 9: Certain HMRC debts

"22   (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) In sub-paragraph (1), the reference to "any amount" is subject to any regulations under section 99(1) of the Finance Act 2020.

     (3) 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 under section 99(3) of the Finance Act 2020.

(4) In this paragraph "the Commissioners" means the Commissioners for Her Majesty's Revenue and Customs."

(7) The amendments made by this section do not apply in relation to any case where the relevant date is before 1 December 2020.

Changes to legislation:
There are currently no known outstanding effects for the Finance Act 2020, Section 98.