

## Insolvency Service



Department of  
**Enterprise, Trade  
and Investment**

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**Dear IP 27**

13 February 2009

Dear Insolvency Practitioner,

In this, the twenty seventh letter of the “Dear IP (NI)” series, I should like to deal with the following issues:

1. Assets Tab – Realisation of Assets
2. VAT on Bond Premiums
3. Proof of Debt - EJO costs
4. The Employment Rights (Increase of Limits) (Northern Ireland) Order 2008
5. Advance Notification of Redundancies (HR1 form)
6. The Energy Performance of Buildings (Certificates and Inspections) Regulations (Northern Ireland) 2008 (S.R. 2008/170)
7. IP Portal

### **1. ASSETS TAB – REALISATION OF ASSETS**

I would like to take this opportunity to remind all Insolvency Practitioners (IP's) that for cases adjudicated after 17/10/06 it is the IP's responsibility to update the assets tab each time an asset is realised.

The Official Receiver's staff will have entered any assets they were aware of prior to the IP appointment. It is then up to IP's to update the assets tab with the amounts realised and also to enter any other assets you may discover under 'Create New Asset'.

When updating, 'Select' the asset and then 'Edit Asset' details. Please ensure you tick the 'Asset Realised' box or the details will not update on the front page of the tab. The updated Assets tab replaces form P34/L15 'Summary of All Known Assets'.

Before submitting your final accounts please check that all details have been updated on the assets tab.

Your co-operation in this matter is much appreciated.

If you have any queries regarding this e-mail please contact Jim Loughan, Department of Enterprise Trade and Investment, Insolvency Service, Policy Unit, Ormeau Avenue, Belfast, BT2 8NJ; Telephone 02890 548519; e-mail; [jim.loughan@detini.gov.uk](mailto:jim.loughan@detini.gov.uk)

## **2. VAT ON BOND PREMIUMS**

Advice has been sought from HM Revenue & Customs (HMRC) to determine whether insolvency practitioners should apply VAT when re-charging bond premiums to insolvent estates.

HMRC advise that VAT should always be charged.

HMRC concluded that as the insolvency practitioner is the bond principal, the cost of obtaining the bond forms part of his or her general business overheads rather than a payment incurred on behalf of the estate. Hence bond premiums cannot be viewed as a disbursement for VAT purposes, and are subject to VAT at the same rate as the insolvency practitioner's other fees.

## **3. PROOF OF DEBT - EJO COSTS**

Insolvency Practitioners should note that the **costs of enforcement** payable to the EJO which have not been recovered at the date of bankruptcy or winding-up order are not provable on the basis that such costs are not part of the judgment debt or a debt in any sense and the debtor or company is under no liability for them. When admitting claims for dividend payment please ensure these costs are not included.

## **4. The Employment Rights (Increase of Limits) (Northern Ireland) Order 2008**

With effect from 2 March 2008 the statutory limit on a weeks pay for the purpose of calculating a redundancy payment was increased from £330 to £350. A copy of the above relevant statutory rule is available at the following web site address:

[http://www.opsi.gov.uk/sr/sr2008/nisr\\_20080047\\_en\\_1](http://www.opsi.gov.uk/sr/sr2008/nisr_20080047_en_1)

*Enquiries regarding this article may be directed to Jack Reid, Department of Enterprise, Trade and Investment, Insolvency Service, Legislation Unit, Ormeau Avenue, Belfast, BT2 8NJ; telephone 028 90548543 e-mail: [jack.reid@detini.gov.uk](mailto:jack.reid@detini.gov.uk)*

## **5. Advance Notification of Redundancies (HR1 form)**

### **Employment Rights (Northern Ireland) Order 1996**

Employers proposing to make 20 or more employees redundant at one establishment within a period of 90 days must both consult with employees' representatives, and also notify the Department of Enterprise, Trade and Investment of the proposed redundancies, at least 30 days before the first of the dismissals takes effect. If the number of proposed redundancies is 100 or more the consultation and notification must take place at least 90 days prior to the first dismissals. In practice the notification to the Department of Enterprise, Trade and Investment is made by completion of a HR1 form which is sent to Statistics Section, Statistics and Research Branch, Department of Enterprise, Trade and Investment, R115, Netherleigh, Massey Avenue, Belfast, BT4 2JP.

The timely completion of a HR1 is not simply a device to protect an employer against the possibility of an industrial tribunal making a protective award for the failure of the employer to comply with the consultation requirements of the Employment Rights (Northern Ireland) Order 1996. It is also an important tool in mitigating, as much as possible, the effect of redundancy on employees. The requirement to consult employee's representatives about proposed collective redundancies is for the employer and employee's representatives to have sufficient time to allow for meaningful discussions to take place to seek ways to either avoid the redundancies or at least to reduce the numbers concerned.

Clearly this will not always be possible and it is for this reason that it is important that the Department is notified of the proposed redundancies at the earliest possible stage. Government has a statutory obligation to assist employees facing redundancy and in order to discharge that liability information given in HR1 forms is passed to other Government Departments and Agencies so that measures can be put in place to assist redundant employees in the event that the consultation process is not successful. Information is NOT given for any other purposes nor is it released to any outside bodies, including the media.

In the current economic climate many insolvency practitioners may have been asked to advise clients on ways to restructure their businesses – not whilst formally acting as an insolvency practitioner but rather on a consultancy basis as a turnaround professional. If it is likely that redundancies are possible in any restructuring it would be prudent to remind those clients of their obligations to consult as outlined above. The client should also be made

aware that the law does not absolve an employer of those obligations simply on the basis that the employer is insolvent.

*Enquiries regarding this article may be directed to Jack Reid, Department of Enterprise, Trade and Investment, Insolvency Service, Legislation Unit, Ormeau Avenue, Belfast, BT2 8NJ; telephone 028 90548543 e-mail: [jack.reid@detini.gov.uk](mailto:jack.reid@detini.gov.uk)*

## **6. The Energy Performance of Buildings (Certificates and Inspections) Regulations (Northern Ireland) 2008 (S.R. 2008/170)**

These regulations implement various aspects of the EU Energy Performance of Buildings Directive, which lays down requirements for the production of energy performance certificates ("EPC") when buildings are constructed, sold or rented out. The regulations came into operation on 30 June 2008. An EPC is distinct from a Home Information Pack ("HIP"), which apply solely to residential property, although HIP's also incorporate EPC's. Home Implementation Packs are not required in Northern Ireland. Energy Performance certificates are.

The regulations require sellers to make an EPC available to prospective buyers and tenants of buildings at the earliest opportunity (regulation 5). In circumstances where a relevant building comprised within an insolvent estate is being sold in our view it would be incumbent upon the insolvency officer holder to provide the EPC. The costs of providing the EPC would then fall to be charged to the estate.

Further information is available on the Department of Communities and Local Government website, at:

<http://www.communities.gov.uk/planningandbuilding/theenvironment/energypeformance/publications/>

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## **7. IP Portal**

During a recent audit it was noted that on several occasions information on the realisation of assets was not detailed correctly on the IP portal. Incorrect information relating to a client may have an effect on the accounts. IP's are reminded that the description box for both lodgements and payments should give a detailed, accurate and up to date description of the assets realised or payments being requested.

Enquiries regarding this article may be directed to Dympna Fitzsimons, Department of Enterprise, Trade and Investment, Insolvency Service, Central Accounting Unit, Ormeau Avenue, Belfast, BT2 8NJ; telephone 028 90548518 e-mail: [dympna.fitzsimons@detini.gov.uk](mailto:dympna.fitzsimons@detini.gov.uk)

A handwritten signature in black ink, appearing to read 'Reg Nesbitt'. The signature is written in a cursive style with a large initial 'R' and a distinct 'N'.

WR Nesbitt  
DIRECTOR OF INSOLVENCY