



Solvent Liquidation

As well as being a great year of sport, 2012 has seen one of the biggest changes to Solvent Liquidation in the last 25 years. This flyer provides a welcome reminder of those changes and the practical issues that still need to be considered.

As a reminder, a Solvent Liquidation, also referred to as a Members' Voluntary Liquidation, can only be used for a solvent company. It provides for a tax efficient distribution of assets to its shareholders, who control the process.

The Changes

On 1 March 2012 Extra Statutory Concession 16 ('ESC16') was withdrawn and replaced with a more restrictive Statutory Instrument (ESC Order 2012).

Previously, the directors would be advised by their Accountant to dissolve the company and distribute the surplus funds without the need for liquidation. Those distributions would be made under ESC16 as capital, rather than a dividend and have the advantage of being subject to Capital Gains Tax, rather than Income Tax.

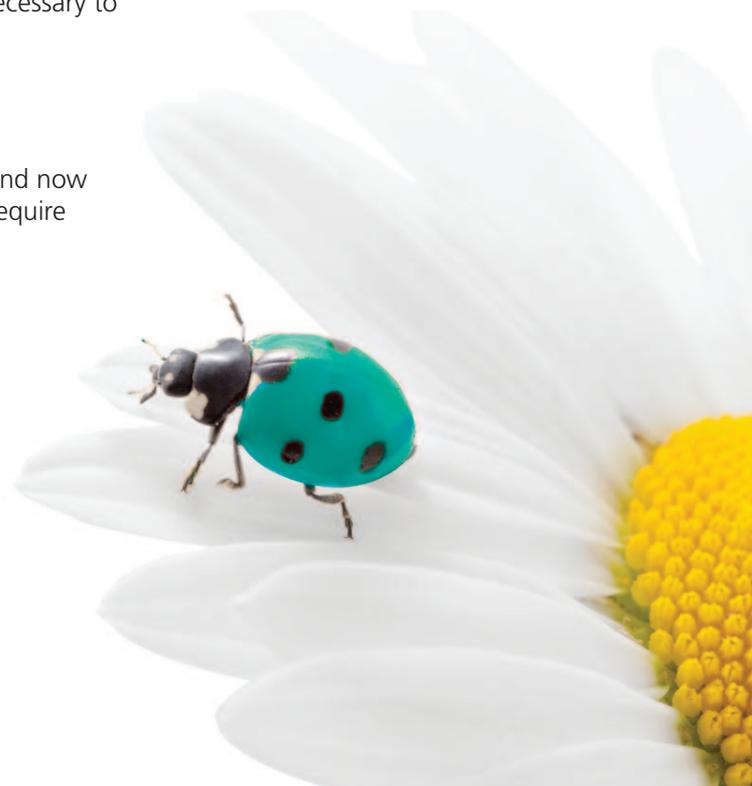
From 1 March 2012 this favourable tax treatment will only apply if the distribution is less than £25,000; if more, then a Solvent Liquidation will be necessary to ensure the distribution is treated for tax purposes as capital.

The Challenges

For many companies their reserves will be greater than £25,000 and now they will need to consider a solvent liquidation route, which will require a Licensed Insolvency Practitioner.

The challenge for Poppleton & Appleby is to ensure our fees are competitively priced and to take account of the personal tax positions of the individual shareholders. Equally, we know that shareholders want their money back quickly and if this is in the form of cash, we would expect to have it in the shareholders hands within a matter of days and often within 48 hours.

The cost of the process has reduced in recent times and our charges have proved very competitive, with the added benefit of dealing with a local well trusted team to work alongside you in advising your client.



Why use a Solvent Liquidation

A Solvent Liquidation may be appropriate when:-

1. the directors wish to retire.
2. the company has met the objectives for which it was set up.
3. the shareholders wish to remove their investment from the company.
4. there has been a breakdown in relations between the directors or shareholders.
5. the company is no longer viable, but still has reserves to distribute.
6. a company may have a number of businesses which may need to be separated to different shareholders or even in anticipation of a sale of part of the business. We can work alongside your advisers to carry out a Section 110 Insolvency Act Scheme of Arrangement.

Thinking Ahead

In our experience, forward planning is crucial if the shareholders are to get their money quickly. An early meeting with the directors, shareholders and advisers will highlight any potential issues which can be addressed as part of an agreed plan.

Issues which commonly arise are:-

- Do you need to protect the company name ahead of liquidation?
- Review of tax and other liabilities, including contingent claims, in particular:-
 - Ensure the company has been released from guarantees and warranties it may have given in the past.
 - Ensure that any lease and finance agreements have been novated.
 - Review product and other trading liabilities which may exist.
 - Is there a pension scheme which needs to be dealt with?
- Is run-off insurance required and how much will it cost?

Getting these issues right at the start is essential if costs are to be kept to a minimum.

Why use Poppleton & Appleby

We are one of the most respected, independent business recovery and insolvency practices in the Midlands. We provide a cost-effective, partner-led service providing clear, practical, professional advice and commercial awareness.

We are the first choice for referrals by many accountancy and legal firms, they trust us and so can you.

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