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## **PRESS RELEASE**

### **Can I have time to pay please?**

Are you struggling to pay your tax/VAT liabilities? If so, you are not alone. On speaking to the Deputy Director of Debt Management and Banking at HM Revenue & Customs ("HMRC"), he claims to be handling Crown debt of £20 billion at any given time.

I am regularly approached by directors whose company has tax debts and yet there is a core, profitable business. They think because they have problems with tax arrears the company must go into administration or liquidation before HMRC do it to them. I know some of you may think my sanity is in doubt when I say HMRC do not enjoy winding up companies or exercising other available collection methods. In fact, HMRC say enforcement procedures are used as a last resort or where they have reason to believe recovery of their liability is at risk. Whatever the case, burying your head in the sand and thinking it will go away is a BIG taboo!

Where a company has temporary cash flow problems HMRC will consider reaching a time to pay agreement ("TTPA"). The Business Payment Support Service ("BPSS") was set up in November 2008 and can grant extra time to pay for all forms of taxation arrears. Indeed, since inception BPSS has established TTPAs with over 200,000 companies involving tax liabilities of some £5.2 billion.

This is not a tool to defer taxation liabilities indefinitely but a method of supporting viable businesses that are suffering short term cash flow difficulties. Indeed, the BPSS will need to be satisfied it is a temporary "blip" in trading and that you have the ability to meet future tax liabilities by their due dates.

The other criteria considered include:

- 1) The size of debt versus the risk of not getting paid at all.
- 2) The requested period for repayment.
- 3) Whether it is realistic to believe the company has the capability of meeting the repayment terms, together with honouring future liabilities when they fall due.
- 4) Previous tax compliance history.

It goes without saying that BPSS look for the shortest period necessary for payment (normally 2 – 6 months) and will generally not consider anything longer than 12 months. For tax liabilities in excess of £1 million (apparently, the highest recorded on a time to pay is £25 million!) HMRC will also require that an independent review is undertaken by a qualified professional advisor, such as an insolvency practitioner.

BPSS emphasise that time TTPAs are designed to help viable businesses get back on their feet. It is worth noting that they will not normally consider a second or subsequent TTPA irrespective of how well you performed with the first agreement, the simple reason being that if you need another one then there is something more fundamentally wrong with the business that puts its viability in question. Alternatively, you have not used the previous time to pay period as an opportunity to review or restructure the business to ensure the previous difficulties do not arise again.

As an example, I recently handled a case where HMRC refused to entertain a TTPA for a company that had previously reached (and successfully concluded) a TTPA but, accepted a company voluntary arrangement instead, on the basis that a CVA provided a regulated, formal procedure that included restructuring to ensure old issues would not raise their heads again.

If you are concerned about the continued viability of your business, Marshman Price offers a free one-hour consultation to discuss, in full confidentiality, what options are available.

Telephone Alan Price on 01933 270 918, Gary Pettit on 01604 259574 or email

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