

## UK's Tax Authority Pledges Support for (only the best) Restructuring Deals

Article By:

Rachael Markham

John Alderton

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HMRC as the UK tax authority is often the largest creditor in any insolvency, but has not always been willing to engage in the process. This has caused viable restructuring proposals to fail for lack of support and this sometimes results in HMRC not achieving the best return. HMRC recognise that this stance has frustrated Insolvency Practitioners trying to achieve a restructuring. So, is this about to change?

In the latest [\*Dear IP\*](#), HMRC have promised to be more proactive in using its increased voting rights as secondary preferential creditor. This will ensure that HMRC receive a better return and secures future revenues. However, HMRC do not promise to vote positively in all cases – and this should not be assumed!

Although the news that HMRC will take a commercial approach and support restructurings is good, it comes with a slight warning. That is, to submit the best possible proposal from the outset. HMRC explain in *Dear IP* that it often sees 'exploratory' proposals that are rejected, which sometimes result in an improved offer then being made. Accordingly if there is a better offer, then that is the one that should be tabled in the first instance. HMRC's message is that it will vote against any proposals that it considers could or should be better.

However, is it right that HMRC should use its preferential status to unilaterally decide whether it thinks the proposal "could" be better, which is what *Dear IP* suggests? There are often competing stakeholders to manage, and the subjective view of HMRC as to "best" may not be consistent with the insolvency practitioner's own view or that of other stakeholders.

The answer must be to ensure that HMRC is engaged from the outset. If the company, HMRC and the insolvency practitioner do that, then there is a better chance that HMRC will vote in favour, rather than sit on the sidelines as it has done previously, or reject the proposal out of hand.

HMRC's approach is welcome, but contrast this with the stance taken in the recent *Houst* restructuring – see our [previous blog](#).

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