



Rt Hon Sajid Javid MP
Chancellor of the Exchequer
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

Tuesday 3 September 2019

Dear Chancellor,

Preferential status for tax debts in corporate insolvencies – a blow to the UK economy

We are writing to express our serious concerns regarding the Government's proposal, published by your predecessor in the Draft Finance Bill 2019-20, to elevate some tax debts to preferential status in insolvencies, and to urge the Government to reconsider its position.

While we understand that the Government wishes to increase the value of taxes repaid in the event of insolvency, there is a serious risk that the wider costs of the Government's approach will outweigh any expected benefit.

This proposed policy would reverse successive governments' attempts to encourage a culture of business rescue in the UK, and would undermine the Government's recent work to strengthen the UK's insolvency and restructuring framework. The proposal may have a significant and negative impact on access to finance in the UK, and will increase the impact of corporate insolvencies on pension schemes, trade creditors, consumers, and the wider business community.

The impact on business funding and rescue

UK businesses have benefitted greatly from the growth in alternative finance providers over recent years, many of whom lend on a 'floating charge' basis. 'Floating charge' lending is a popular, affordable, and flexible form of funding for many businesses. It is used to help businesses purchase or expand stock or machinery, and can be particularly helpful in rescue situations. SMEs and key sectors, including the retail sector, find this type of lending particularly useful.

One of the most important consequences of the Government's policy is that it will make lending on a 'floating charge' basis much riskier for the lender.

With the repayment of some tax debts set to take priority over repayments of 'floating charge' debts in insolvency procedures from 6 April 2020, those who provide finance on a 'floating charge' basis will have to take steps to mitigate this risk to the value of their capital. Simply put, this proposal will limit the appetite of lenders to provide capital to businesses on a 'floating charge' basis. UK businesses, including, crucially, SMEs, will therefore have fewer financing options available to them.

Worse, with existing 'floating charge' facilities likely to be reduced in response to the Government's policy, some business borrowers will be pushed into default. Indeed, we have heard reports that some lenders are already planning to restrict available floating charge lending.

A restriction on access to finance will further mean it is harder to rescue businesses.

And, while extra money for HMRC in insolvency procedures may appear positive, it means less will be going back to trade creditors, pension schemes, and consumers. This will hurt the economy in the long run. Poor returns from insolvency procedures can jeopardise the health of other businesses, can make creditors more likely to vote down rescue proposals, and can trigger further insolvencies. The Government's policy increases the chances of this happening.

Reduced access to finance and more business failure mean less business growth – and reduced tax receipts for the Government.

A change of direction needed

If the Government's policy is introduced, it is likely to undermine confidence in trading, lending, and investing in the UK economy. It will also not help make the UK a good place to do business. And, with the UK preparing to leave the EU, and with businesses already facing a number of economic challenges, the timing of this move is particularly unhelpful.

We urge the Government to consider the bigger picture. Based on its wider impact on UK corporates and the economy, this policy proposal should be withdrawn.

At the very least, the Government must take steps to limit the worst side effects of its policy, including capping the age of tax debts eligible for a preferential claim, or allowing existing floating charges to retain their precedence over HMRC's new claim. The Government should also consider alternatives to its proposed policy: proactive, consistent and commercially-minded engagement from HMRC in insolvency and restructuring situations would improve the repayment of tax debts and would benefit other creditors, too.

We would very much welcome a meeting with you to discuss the issues raised above. Please note that we have sent a copy of this letter to the Financial Secretary to the Treasury, Jesse Norman MP.

We look forward to hearing from you.

Yours sincerely,

Duncan Swift
President, R3

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Global Head, Alternative Credit Council

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Melanie Leech CBE
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