



## Factsheet regarding Members Voluntary Liquidations (MVLs)

### Purpose of MVL

This procedure is used to wind up a solvent company, which is no longer required. It generally has tax advantages for the shareholders, and must be used if the assets, including share capital, are £25,000 or more.

### Procedure

The MVL must follow the procedure set out in the insolvency legislation. We will assist you with the preparation and administration at each stage, including drafting notices, minutes and other documents where appropriate. We will also prepare the documents to commence the liquidation process including the Declaration of Solvency, but the ultimate responsibility remains with the directors.

The following main steps must take place in each appointment:

**Board meeting:** A quorate meeting of the Board of Directors will have to approve the issue of notices convening the Members' meeting required by statute to place the Company into MVL, nominate someone to act as chairperson at the meeting of Members and state the Directors who are to swear a Declaration of Solvency on behalf of the Company.

**Notices:** Notices have to be issued convening a meeting of Members to pass resolutions to wind up the Company voluntarily, appoint Liquidators, set the basis of the Liquidators' remuneration, and any other resolution necessary in the circumstances of the Company for the administration of the liquidation, such as granting the Liquidators the power to distribute assets in specie to the Members.

**Declaration of Solvency:** The Director(s) nominated by the meeting (which must be all of them if there is only one or two Directors, or a majority if there are three or more Directors) will be required to swear a Declaration of Solvency on behalf of the Company. The Declaration must confirm that the Company will be able to pay its debts in full, including interest, within no more than 12 months of the commencement of the date of the liquidation. We will prepare the Declaration of Solvency from the information that you provide, but it remains your statement. In the event it transpires the Company is, in fact, insolvent and it is placed into creditors' voluntary liquidation by the Liquidator, it is presumed that the Declaration of Solvency was not made on reasonable grounds, which leaves the Director(s) who swore it liable to a fine and/or imprisonment.

### VAT

There is no need to de-register for VAT pre-liquidation as this can be done post liquidation by the liquidator.

## **Assets**

When a company is wound up, the assets (including any cash in the bank) vest in the liquidator and the directors have no power or authority to deal with them. Some banks tend to be very slow at closing company bank accounts with large credit balances following the winding up. When this occurs, we usually notify the directors. Direct contact between the directors and the bank at this stage is often sufficient for the bank to transfer the funds and close the account.

## **Distribution**

Shareholders can usually have a distribution of about 75% of the estimated surplus, seven weeks from the date of winding up, providing they enter into an indemnity with the liquidators.

## **Clearance**

The Liquidators will need to obtain clearance from HM Revenue and Customs about the company's Corporation Tax affairs before the liquidation can be finalised and completed. The Liquidators will not be able to obtain such clearance until final accounts have been prepared to the date of the liquidation. The Liquidators will instruct the Company's accountants to prepare them in due course. The accountants' reasonable costs of preparing the accounts and finalising the Company's Corporation Tax liability will be payable as an expense of the liquidation. It can take many months from the date HMRC receive the returns before they give clearance.

The liquidators will also need clearance from HMRC in respect of VAT and PAYE whether or not the company is registered for VAT or has a current PAYE scheme as at the date of liquidation.

HMRC is currently charging interest on all liabilities due to them from the date of liquidation to the date of payment, including on Corporation Tax, even where this is paid before it is due. Therefore, we would recommend that all debts to HMRC are paid prior to winding up and if necessary, we would suggest the directors pay what is estimated will be due as any overpayment will be repaid to us in due course.

## **Distribution in Specie**

Assets may be transferred in specie post liquidation by the liquidators. It should be noted though that any tax advantage will be lost if the transfers are effected pre-liquidation.

## **Closing and Release**

It is not unusual for an MVL to be open for around twelve months. Steps are always taken as soon as possible to close the liquidation but if HMRC have been slow or there have been other issues please bear with us, as we will always call a final meeting to obtain our release as soon as possible.

## **Dissolution**

The company will automatically be dissolved by Companies House about three months after the release of the liquidators.

## **Undisclosed Assets**

Any assets not disclosed to the liquidators and therefore are not dealt with within the liquidation will become 'bona vacantia' which effectively means they have no owner and therefore will belong to the Crown.