Finance Act, 2008

Section 131 - No set-off where insolvency procedure has been applied

1) This section applies where- (a) an insolvency procedure has been applied to a person, and (b) there is a post-insolvency credit in relation to that person. (2) The Commissioners may not use the power under section 130 to set that post insolvency credit against a pre-insolvency debit in relation to the person. (3) "Post-insolvency credit" means a credit that- (a) became due after the insolvency procedure was applied to the person, and (b) relates to, or to matters occurring at, times after it was so applied. (4) "Pre-insolvency debit" means a debit that- (a) arose before the insolvency procedure was applied to the person, or (b) arose after that procedure was so applied but relates to, or to matters occurring at, times before it was so applied. (5) Subject to subsection (6), an insolvency procedure is to be taken, for the purposes of this section, to be applied to a person when- (a) a bankruptcy order or winding up order is made or an administrator is appointed in relation to that person, (b) that person is put into administrative receivership, (c) if the person is a corporation, that person passes a resolution for voluntary winding up, (d) a voluntary arrangement comes into force in relation to that person, or (e) a deed of arrangement takes effect in relation to that person. (6) In this section references to the application of an insolvency procedure to a person do not include- (a) the application of an insolvency procedure to a person at a time when another insolvency procedure applies to the person, or (b) the application of an insolvency procedure to a person immediately upon another insolvency procedure ceasing to have effect. (7) For the purposes of this section- (a) a person shall be treated as being in administrative receivership throughout any continuous period for which there is an administrative receiver of that person (disregarding any temporary vacancy in the office of receiver), and (b) the reference in subsection (5) to a person being put into administrative receivership shall be interpreted accordingly. (8) In this section- "administrative receiver" means an administrative receiver within the meaning of section 251 of the Insolvency Act 1986 (c. 45) or Article 5(1) of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), "administrator" means a person appointed to manage the affairs, business and property of another person under Schedule B1 to that Act or to that Order, "credit" and "debit" have the same meaning as in section 130, "deed of arrangement" means a deed of arrangement registered in accordance with the Deeds of Arrangement Act 1914 (c. 47) or Chapter 1 of Part 8 the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), and "voluntary arrangement" means a voluntary arrangement approved in accordance with Part 1 or Part 8 of the Insolvency Act 1986 (c. 45) or Part 2 or Chapter 2 of Part 8 of the Insolvency (Northern Ireland) Order 1989. (9) This section extends to England and Wales and Northern Ireland only.