

Distraint

What it means for you

This factsheet is intended for companies, partnerships or individuals - unless the text says otherwise.

If you do not pay, we will start the legal process as soon as possible after the date in the covering letter.

Distraint, sometimes referred to as Distress, is a process where we can visit your home or business, seize your possessions and arrange for them to be sold at a public auction. You must act quickly - if we take your goods it could close down your business.

The visit to seize your possessions

An officer of HM Revenue & Customs will call, generally without notice, at your home or business premises. You can ask the officer to show you proof of identity.

Distraint

The officer will ask you for payment. If you don't pay, the officer will make a list of your possessions on a C204 *Distraint notice and inventory* form. Your possessions can be sold to pay what you owe.

The list **could** include

- your car, van or lorry
- office equipment
- furniture and electrical items
- personal belongings, (individuals only)
- stock.

The list **will not** include

- necessary tools of your trade, unless there are no other distrainable goods
- household items, such as bedding and cooking equipment
- your home
- items subject to a hire purchase agreement.

The officer will give you a copy of the list. It will not include items that belong to someone else or items that are jointly owned. We may ask for proof of ownership. You then have five calendar days to pay what you owe. The total will include the cost of the distraint (the C204 *Distraint notice and inventory* form includes a scale of costs).

Your choices

- Sign the C204 *Distraint notice and inventory* form. Usually, the goods can stay on your premises. You can use the goods but you cannot sell them or give them away.
- Don't sign the C204 *Distraint notice and inventory* form. We can take the goods immediately.

Your rights

We cannot use force to enter your premises to distraint, unless authorised by a Justice of the Peace.

For tax and National Insurance contributions debts (including tax credits overpayments) we will only call between sunrise and sunset. We will try to call during normal working hours.

For VAT and Excise debts we will call between 8.00am and 8.00pm unless your business operates outside these hours.

We cannot call on Sundays and public holidays.

Getting advice

You can get free independent advice from Citizens Advice. Local offices are in *The Phone Book* or visit www.citizensadvice.org.uk

TaxAid
www.taxaid.org.uk

National Debtline
0808 808 4000
www.nationaldebtline.co.uk

The Business, Innovation and Skill's Insolvency Service

In Northern Ireland, Department of Enterprise Trade and Investment's Insolvency Service
www.detini.gov.uk/insolvency

For independent business tax advice, contact Business Debtline
0800 197 6026

Business Link provides impartial advice on all aspects of running a business. They can help you with a range of practical help and specialist counsel covering cash-flow and debtor/creditor management. To find out how they can help contact Business Link on **0845 600 9006** or visit www.businesslink.gov.uk

Selling your goods

If you don't pay within five calendar days of the date of the visit, an independent auctioneer will take away your possessions for sale.

Costs

You must also pay the cost of valuing and selling at public auction.

Money raised

If the sale does not raise enough money to cover what you owe, we will take you to court to recover the balance.

HM Revenue & Customs commitment

We aim to provide a high quality service with guidance that is simple, clear and accurate.

We will:

- be professional and helpful
- act with integrity and fairness, and
- treat your affairs in strict confidence within the law.

We aim to handle your affairs promptly and accurately so that you receive or pay only the right amount due.

If you have a complaint

For information about our complaints procedures go to www.hmrc.gov.uk and under *Quick links* select *Complaint & appeals*.

Customers with particular needs

We offer a range of facilities for customers with particular needs, including:

- wheelchair access to nearly all HMRC Enquiry Centres
- help with filling in forms
- for people with hearing difficulties
 - BT Typetalk
 - induction loops.

We can also arrange additional support, such as:

- home visits, if you have limited mobility or caring responsibilities and cannot get to one of our Enquiry Centres
- services of an interpreter
- sign language interpretation
- leaflets in large print, Braille and audio.

For complete details please:

- go online at www.hmrc.gov.uk/enq or
- contact us. You will find us in *The Phone Book* under HM Revenue & Customs.

HM Revenue & Customs was created in April 2005, integrating the former Inland Revenue and HM Customs and Excise.

Open Government

The HM Revenue & Customs Debt Management and Banking Manual contains more details about our work in this area including how we calculate costs. Please go to www.hmrc.gov.uk/manuals/dmbmanual/index.htm

These notes describe in general terms what is likely to happen. If you would like more details, please contact the HM Revenue & Customs office shown on the covering letter.

These notes are for guidance only and reflect the position at the time of writing. They do not affect any right of appeal. Customer Information Team December 2010 © Crown copyright 2010