

Individual Voluntary Arrangement Factsheet

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| <p>What is an Individual Voluntary Arrangement (IVA)?</p> | <p>An IVA is a legally binding arrangement supervised by a Licensed Insolvency Practitioner, the purpose of which is to enable an individual, sole trader or partner (the debtor) to reach a compromise with his creditors and avoid the consequences of bankruptcy. The compromise should offer a larger repayment towards the creditor's debt than could otherwise be expected were the debtor to be made bankrupt. This is often facilitated by the debtor making contributions to the arrangement from his income over a designated period or from a third party contribution or other source that would not ordinarily be available to a trustee in bankruptcy.</p> | <p>Unlike debt management products, an IVA is legally binding and precludes all creditors from taking any enforcement action against the debtor post-agreement, assuming the debtor complies with the his obligations in the IVA.</p> |
| <p>Who can benefit from it?</p> | <p>An IVA is available to all individuals, sole traders and partners who are experiencing creditor pressure and it is used particularly by those who own their own property and wish to avoid the possibility of losing it in the event they were made bankrupt.</p> | <p>It is also often used by sole traders and partners who have suffered problems with their business but wish to secure its survival as they believe it will be profitable in the future. It enables them to make a greater repayment to creditors than could otherwise be expected were they made bankrupt and the business consequently were to cease trading.</p> |
| <p>The procedure in brief</p> | <p>In theory, it is envisaged that the debtor drafts proposals for presentation to his creditors prior to instructing a nominee, (who must be a Licensed Insolvency Practitioner), to review them before submission to creditors (or Court if seeking an Interim Order).</p> <p>However, in practice the nominee draws up the proposal upon the information provided by the debtor.</p> | <p>In certain circumstances, when it is considered that the debtor requires protection from creditors taking enforcement action whilst the IVA proposal is being considered, the nominee can file the proposal, together with his nominee's report, at Court to seek what is called an Interim Order.</p> <p>There is no requirement to always seek an Interim Order. If it is not required then the above step in the procedure can be missed out.</p> |

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| <p>Continued...</p> | <p>The nominee will circulate the following information to creditors either as soon as it has been finalised or, if seeking an Interim Order, once the Order has been granted: -</p> <ul style="list-style-type: none"> • The nominee’s comments on the debtor’s proposals • The proposals • Notice of the Decision Procedure to be utilised to enable creditors to vote on the proposals • A Statement of Affairs, this effectively being a list of the assets and liabilities of the debtor • A schedule advising creditors of the requisite majority required to approve the IVA • A complete list of creditors • A guide to the fees charged by the supervisor following approval of the IVA • A form of proxy for voting purposes <p>The Decision Procedure would typically be either by Correspondence or Virtual Meeting (i.e. online or telephone conference).</p> | <p>Creditors will be afforded a minimum of 14 clear days’ notice of the Decision Date, therefore allowing time for a review of the proposal document.</p> <p>The purpose of the Decision Procedure is to agree or reject the debtor’s proposals with or without modifications which can be requested by creditors.</p> <p>Acceptance of the proposals requires 75% in value of those creditors who vote via the Decision Procedure. Please note that the 75% relates only to those who actually vote and assuming the creditors receive notice of the proposals, all will be bound by the terms of the arrangement whether they voted or not.</p> <p>Upon approval of the IVA, a supervisor is appointed (usually the nominee) to ensure the proposals are adhered to and to distribute the dividends to creditors.</p> <p>Assuming the debtor complies with the terms of the arrangement, upon completion of the IVA, he will be fully discharged from all liabilities included within it.</p> |
| <p>Key components for a successful IVA</p> | <p>The IVA must offer a higher return to creditors than could otherwise be expected were the debtor to be made bankrupt.</p> | <p>An honest declaration of your assets and/or anticipated future earnings should be made. Material or false declarations are likely to result in the subsequent failure of the IVA.</p> |

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| <p>Advantages of an IVA</p> | <p><i>Individual, sole trader or partner</i></p> <p>Avoids the stigma or publicity of the bankruptcy.</p> <p>Enables a sole trader or partner to continue to trade and generate income towards repayment to creditors, which would otherwise have a call upon the personal assets of the individual.</p> <p>The proposals are drawn up by the debtor and are entirely flexible to accommodate personal circumstances. An example of this may be to exclude the debtor's property from the IVA assuming the debtor can adequately satisfy creditors that the outcome would be better for them by agreeing to this, than could otherwise be expected if a bankruptcy order was made.</p> | <p>The debtor does not suffer the restrictions imposed by bankruptcy, such as not being able to act as a director of a limited company etc.</p> <p><i>Creditors</i></p> <p>The costs of administering an IVA are considerably lower than in bankruptcy, enabling a higher return to creditors. IVAs operate as an insolvency procedure and creditors can, as a consequence of this, still reclaim tax and VAT relief as a bad debt.</p> |
| <p>Disadvantages of an IVA</p> | <p><i>Individual, sole trader or partner</i></p> <p>Fees for the procedure can be high, therefore the procedure is only really suitable in exceptional circumstances, to those debtors with unsecured liabilities of at least £10,000 and have sufficient assets and / or reason to avoid personal bankruptcy. Please note, however, that fees can be paid out of the proceeds paid by the debtor into the arrangement.</p> <p>Where contributions from income are being made, IVAs are generally expected to be for a period longer than that in bankruptcy, i.e. five years as opposed to three years. The five year period is often required by creditors as a bargain for allowing the debtor to avoid the consequences of bankruptcy.</p> | <p>If the debtor fails to comply with the terms of the arrangement, his home and assets can still be at risk if they have not been specifically excluded from the proposals. If the IVA fails as a consequence of the debtor not meeting his obligations under it, it likely that the debtor will be made bankrupt at this time.</p> <p>All IVAs are recorded in a public register and throughout the period of the arrangement, the debtor's credit rating will be affected.</p> <p><i>Creditors</i></p> <p>No opportunity for a trustee in bankruptcy to investigate the actions of the debtor or possibility of hidden assets.</p> |

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