

Liability to tax, etc. of holder of fixed charge on book debts of company. FA86 s115; FA95 s174 1001.—(1)
In this section, “relevant amount” means any amount which the company is liable to remit under—

(a) Chapter 4 of this Part, and

(b) the Value-Added Tax Act, 1972.

(2) Subject to this section, where a person holds a fixed charge (being a fixed charge created on or after the 27th day of May, 1986) on the book debts of a company), such person shall, if the company fails to pay any relevant amount for which it is liable, become liable to pay such relevant amount on due demand, and on neglect or refusal of payment may be proceeded against in the like manner as any other defaulter.

(3) This section shall not apply—

(a) unless the holder of the fixed charge has been notified in writing by the Revenue Commissioners that a company has failed to pay a relevant amount for which it is liable and that by virtue of this section the holder of the fixed charge—

(i) may become liable for payment of any relevant amount which the company subsequently fails to pay, and

(ii) where paragraph (c) does not apply, has become liable for the payment of the relevant amount which the company has failed to pay,

(b) to any amounts received by the holder of the fixed charge from the company before the date on which the holder is notified in writing by the Revenue Commissioners in accordance with paragraph (a), and

(c) where, within the period from the 2nd day of June, 1995, to the 22nd day of June, 1995, or within 21 days of the creation of the fixed charge, whichever is the later, the holder of the fixed charge furnishes to the Revenue Commissioners a copy of the prescribed particulars of the charge delivered or to be delivered to the registrar of companies in accordance with section 99 of the Companies Act, 1963 , to any relevant amount which the company was liable to pay before the date on which the holder is notified in writing by the Revenue Commissioners in accordance with paragraph (a).

(4) The amount or aggregate amount which a person shall be liable to pay in relation to a company in accordance with this section shall not exceed the amount or aggregate amount which the person has, while the fixed charge on book debts in relation to the company is in existence, received directly or indirectly from that company in payment or in part payment of any debts due by the company to the person.

(5) The Revenue Commissioners may, at any time and by notice in writing given to the holder of the fixed charge, withdraw with effect from a date specified in the notice a notification issued by them in accordance with subsection (3); but such withdrawal shall not—

(a) affect in any way any liability of the holder of the fixed charge under this section which arose before such withdrawal, or

(b) preclude the issue under subsection (3) of a subsequent notice to the holder of the fixed charge.

(6) The Revenue Commissioners may nominate any of their officers to perform any acts and discharge any functions authorised by this section to be performed or discharged by the Revenue Commissioners.