

**PREPARATION OF INSOLVENCY OFFICEHOLDER'S
RECEIPTS AND PAYMENTS ACCOUNTS**

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INTRODUCTION

1. This Statement of Insolvency Practice is one of a series issued by the Institute of Chartered Accountants in Ireland to insolvency practitioners with a view to maintaining standards by setting out required practice and harmonising members' approach to particular aspects of insolvency.
2. The purpose of Statements of Insolvency Practice is to set out basic principles and essential procedures with which insolvency practitioners are required to comply. Departure from the standards set out in the Statements of Insolvency Practice is a matter that may be considered by the Institute for the purposes of possible disciplinary or regulatory action.
3. The Statement sets out required practice in the presentation of receipts and payments accounts by insolvency officeholders, both in formal returns prescribed in legislation, and in providing information to creditors and others. Practitioners should go beyond the statutory provisions in order to ensure the proper disclosure and presentation of information.
4. Practitioners are responsible for the presentation of returns on the prescribed forms and within the times specified in the legislation. They should not await reminders or default notices from the Registrar of Companies.
5. Section 57, Company Law Enforcement Act, 2001, entitles the Director of Corporate Enforcement to request the liquidator of a company in liquidation to produce the liquidator's books for examination, either in relation to a particular liquidation process or to all liquidations undertaken by the liquidator. This request can only be made in respect of books relating to a liquidation which has not concluded more than six years prior to the date of the request. The Director of Corporate Enforcement has similar powers in relation to a receiver's books under Section 323A, Companies Act, 1963.
6. The form and content of cash accounts required of Court appointed liquidators are outside the scope of this Statement.

PRESENTATION

7. Presentation of receipts and payments accounts should first and foremost follow the legal requirements as laid out in the Companies Acts, 1963 to 2001, and related

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subordinate legislation and statutory instruments. The following paragraphs deal with other presentation aspects to make the accounts more useful to the reader.

8. As far as possible, receipts and payments summaries in receivership and liquidation appointments should show receipts and payments classified under the headings used in the statement of affairs (where this has been prepared in a sensible form), so as to facilitate comparison.
9. Trading results should be distinguished from the realisations of assets existing at the date of appointment and the costs of realisation.
10. Generally any payments to pre-insolvency creditors should be stated separately or by category indicating amounts paid under duress, reservation of title or in respect of liens, payments to preferential creditors and any other pre-insolvency items.
11. Asset realisations should be shown gross. Costs of realisation should be shown under payments.
12. If assets are sold by a mortgagee in possession so that the proceeds do not come into account, this fact should be stated in a note.
13. If assets are sold where the prior charges are paid out of the sale proceeds, the gross amount should be shown as a receipt and the disbursement of the prior charges as a payment.
14. Where a debenture holder insists on a separate bank account being opened for fixed charge realisations, these transactions should be incorporated into the account without the need to specify that a separate bank account has been operated.
15. In a receivership or liquidation the abstract is prepared in a summary form. Accordingly, as an alternative to showing the amounts inclusive of VAT, it is acceptable to show receipts and payments net of VAT with the total VAT being shown separately. This method is also acceptable for producing periodic summaries for creditors in any insolvency proceeding.
16. The practitioner's fees should be stated separately including any additional management fees or fees for other services. The practitioner's fees may be stated net of out of pocket disbursements (which should be shown and appropriately classified).
17. The cost of professional services and advice from third parties to the practitioner should be shown separately (or by category). The information given in this respect should include not only advisers, but also other hired assistants and such subcontract labour or self-employed staff as are involved in assisting the practitioner in his or her function (as opposed to being employed in the ordinary course of the company's business). Any fees to the practitioner's own firm, or to any firm or person with whom he or she has a profit or work referral arrangement, should be distinguished and shown separately.

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18. If a "hive-down" has taken place, realisations from assets sold by the hive-down subsidiary should appear in that company's financial statements. The proceeds received from the hive-down subsidiary in respect of assets transferred to it and the proceeds from the sale of shares in the hive-down subsidiary should be shown in the abstract, so far as possible classified according to the categories of assets transferred (rather than simply as proceeds of sales of hive-down subsidiaries). If separate fees have been charged for the management of the hive-down subsidiary, this fact should be stated and where financial statements of the hive-down subsidiary are prepared and filed under the control of the practitioner, such fees should be disclosed separately in its accounts or by way of note.
19. Amounts received and disbursed from the Insolvency Fund do not form part of the funds of the estate and must be dealt with through a separate bank account. Notwithstanding this the amounts should be recorded as part of the receipts and payments accounts.
20. Other amounts received and banked which are not part of the estate and are subsequently paid to the true owner should be shown as a receipt with the refund being shown separately as a payment. Assets collected by the officeholder on behalf of a mortgagee should be shown as a receipt and any fee charged shown as a payment.
21. Distributions in specie or other non-cash distributions, such as goods returned on foot of reservation of title claims, should be disclosed by way of note. Non-cash distributions may have VAT implications.

EFFECTIVE DATE

22. This Statement is effective from 1st May 2005.