

Disguised remuneration

Loan charge Review – what is next?

The loan charge was introduced to counteract the tax advantage gained by many who used disguised remuneration schemes, often known as Employee Benefit Trusts “EBTs”.

HMRC contacted the individuals who had used these schemes and encouraged them to settle and repay the tax advantage which was previously obtained prior to the rule change. The loan charge was widely criticised in the media and the legislation was substantial, allowing HMRC to retrospectively examine relevant transactions for up to 20 years.

The independent review was conducted by Sir Amyas Morse and further to his recommendations changes have been announced by the government.

Proposed Changes

- The loan charge will now only apply to outstanding loans made on, or after, 9 December 2010 (previously the charge applied to loans outstanding from 6 April 1999);
- The loan charge will not apply to outstanding loans made in any tax years before 6 April 2016 where the avoidance scheme use was fully disclosed to HMRC and HMRC did not take any action;
- The government have also proposed an extension to time-to-pay arrangements.
- Taxpayers can now elect to spread the amount of their outstanding loan balance evenly across three tax years (from 2018-19 to 2020-21).

What should affected taxpayers do?

Consider whether any new action is required in light of the proposed changes. HMRC have agreed to refund payments previously made by taxpayers and this is known as ‘voluntary restitution’ where:

- The loan charge no longer applies (loans made before 9 December 2010)
- Loans were made before 6 April 2016, the avoidance scheme use was disclosed to HMRC and the department did not take action (for example, opening an enquiry)

Legislation is anticipated in 2020 to enshrine these changes into statutory law. In the meantime HMRC offers further guidance via the following link:

<https://www.gov.uk/government/publications/disguised-remuneration-independent-loan-charge-review/guidance>