

Statement on the Loan Charge from Mark Garnier MP

The loan charge issue is one that, according to HMRC, affects some 50,000 individuals. There is no doubt that it has caused stress and probable hardship for many of those individuals. It is understandable that there is serious concern about the effects of HMRC's action.

Using a simple example, for a 40% marginal rate taxpayer, each £10 of pay costs the employer a little over £10 (including NI contributions), whilst the employee receives just £6 (less a little more for NI contributions). By treating this as a loan as opposed to pay, the tax liability is eradicated and the employee can receive £10. In theory the employee will eventually repay the loan, but in practice the loan is apparently forgotten.

There are a number of issues that I, as chair of the TSC, would address:

1. To what extent have employers benefited from this? An employee expecting £6, may be grateful to receive £8, the employer gaining £2. Indeed, an unscrupulous employer may keep all the tax saving. Have employers been approached by HMRC for clarification on their share of the tax liability?
2. How has HMRC decided that the loan will never be repaid? What evidence do they have that this is the case? This is important because if the loan is officially forgiven at some point in the future, it will incur a tax liability as a gift so without proof that the loan has been forgiven, how can they levy tax now?
3. HMRC is a "non-ministerial" department, meaning ministers cannot intervene on their activities, merely giving them instructions through legislation. HMRC is instructed to maximise tax revenues, but I would seek to explore whether they have exceeded their remit in this case (and possibly others).
4. I would explore in greater detail the measures HMRC are employing to help those caught up in this, facing financial distress. Are they genuinely helping those from whom they are seeking settlement?
5. Very importantly, I would explore in great depth the extent to which HMRC is making retrospective tax decisions. I think it is perfectly acceptable to close off a scheme such as this if they deem it to be wrong, but with fair warning and for the future. But to have neglected to do anything about it since 2006, only to retrospectively tackle it appears unjust and retrograde.

As a general point, it is important that tax is collected for the benefit of our wider society and people, from huge corporations to those in the cash economy, must pay what is due. That is fair. But HMRC must play their part in being fair and in being seen to be fair. For all of us to trust our tax system, we must have confidence that HMRC is doing the right thing.