



All-Party Parliamentary Loan Charge Group

www.loanchargeappg.co.uk

Individuals Policy Directorate
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Loan Charge APPG submission to the HMRC consultation on the proposed amendments to implement changes to the Loan Charge legislation

The Loan Charge APPG believes that the draft legislative changes to amend the Loan Charge, which are due to be included in the forthcoming Finance Bill, do not properly or adequately deal with the fundamental injustice of the original legislation. Nor do they fairly resolve the issue but still leave thousands of individuals and their families facing retrospective tax bills for sums that have never legally been proven to be due. This undermines the rule of law.

We believe that the Morse Review came to a flawed conclusion about the law “being clear” from December 2010, but we will deal with this separately (though this fundamental flaw does still see thousands of people facing retrospective bills that they cannot appeal).

We were also surprised that the Government rejected some key recommendations of the Morse Review and chose to interpret others in ways which clearly undermine the thrust of the review’s recommendations. So we are deeply alarmed to see the draft legislation continuing with this approach and, as set out below, want to see requisite changes.

In terms of the draft legislation as it is proposed:

The Loan Charge APPG believes that the changes, as they stand, will leave many thousands of individuals and their families facing hardship, with some having no choice but to declare bankruptcy and others having to sell their homes (we are aware of and have seen the evidence of people having already done these things, due to demands related to the Loan Charge). We also believe that with these changes being proposed by the Government, that there will remain a risk of mental breakdown and of further suicides. This follows the documented tragic deaths of seven people facing the Loan Charge.

The Loan Charge APPG believes therefore that there must be further changes to the draft legislation in addition to the ones currently being proposed:

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- We believe that the date from which the Loan Charge should be applied should be changed from December 2010 (as currently proposed) and to the date of Royal Assent of the Finance Bill in November 2017. This being to end all retrospection (with 2017 also being when the final judgment was passed in the Rangers cases by the Supreme Court).
- The Government should accept the recommendation from the Morse Review that unprotected/closed tax years should now remain closed on the basis of 'reasonable' and not 'full' disclosure. Reasonable being defined as what the law was understood to require at the time of disclosure.
- We are concerned at the way the long established definition of closed years is being changed by HMRC and the Government to refer only to tax years in which HMRC opened an enquiry and later closed it, as opposed to all unprotected years. So in this (and all related legislation) closed years should be defined as always understood i.e. unprotected years whether enquiries had been opened and subsequently closed or whether HMRC never opened an enquiry and are now out of time to do so.
- The Government should accept the recommendation of the Morse Review that those with incomes under £30,000 should have any outstanding balances written off after 10 years of making reasonable payments. There is no justification in not doing so, other than being vindictive, when HMRC and the Treasury must realise the hardship this will cause to people in this group.
- The legislation currently applies only to individuals and not to company directors, who now also face the loan charge related liabilities of their company being passed to them as individuals, which is unfair and would prove devastating to them and their families. So the legislation must include business owners and directors as well as individual contractors.
- HMRC and the Government continue to ignore the issue that some people facing the Loan Charge are now facing loans being recalled by parties who claim to have been assigned the rights to those loans. In some cases loan books appear to have been sold on. With people now facing having to repay the loans and yet also remaining subject to the Loan Charge, this is clearly grossly unfair as well as making bankruptcy inevitable for many. A simple but fundamental principle must be built into the legislation which is that people cannot be forced to repay a loan and still have to additionally pay the Loan Charge (or any other taxes based on the false assumption that these loans are non-repayable or are loans in name only). Any money paid to HMRC (including APN's) on loans where repayment is enforced must be refunded as it has been taken by HMRC on a false premise.

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We believe strongly that only with changes to the legislation that go beyond the ones that the Government is currently proposing, will the Loan Charge Scandal finally be fairly resolved. With the ongoing threat to many thousands of people's wellbeing, we hope that such changes will be properly considered.



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