Open Letter To The Prime Minister And Chancellor On The Loan Charge

June 2021

Dear Prime Minister and Chancellor,

We are writing, as Parliamentarians who remain very concerned about the Loan Charge and its inevitable devastating impact on thousands of UK families. If the Government does not act to instruct HMRC to change course, then we are fearful of what the consequences will be when HMRC enforce the Loan Charge.

New information has come to light that further highlights the injustice people are facing that should lead to the Government accepting that further changes are needed, both to avoid the otherwise disastrous consequences of allowing HMRC to enforce the Loan Charge and to bring a fair and just resolution to what remains a deeply controversial policy.

Three very significant things have been revealed by recent Freedom of Information requests:

1. **That HMRC tried and failed to find legal precedent for them being permitted to pursue individuals, rather than employers**

First Permanent Secretary and Chief Executive of HMRC Jim Harra has admitted (in an internal email to senior colleagues) *"In recent months I have repeatedly tried to obtain legal analysis to understand the strength of our claim with very little success".*

- This undermines the claim that that the Loan Charge is based on the outcome of legal cases. The reality is that the Supreme Court judgment in the Glasgow Rangers' case in 2017, often wrongly cited as legal precedent for the Loan Charge, deemed employers to be liable for any tax deemed to be avoided. This decision did not give HMRC the right to directly pursue individual contractors.
- It also fundamentally undermines the conclusion of the Morse report, which claimed 'the law was always clear' from December 2010, when HMRC themselves can't prove that.

2. **It was HMRC who came up with the idea of the Loan Charge, not the Treasury**

Ministers should decide policy, yet HMRC developed the idea of the Loan Charge and proposed it in advice to Treasury ministers in September 2015. It is also clear that HMRC proposed the Loan Charge as they had failed to win court cases allowing them to pursue individuals, which is the opposite of the impression given.

3. **Even HMRC realise that the Loan Charge is a "debacle".**

First Permanent Secretary and Chief Executive Jim Harra calls it the "Loan Charge debacle". He is right and this has gone on for long enough and needs a proper, reasonable solution to resolve this debacle and end the nightmare for thousands of UK families.

The need for a fair resolution to avoid thousands of bankruptcies

Most people facing the Loan Charge are clearly victims of mis-selling, having been assured that schemes were fully compliant and given no warning by advisers and scheme promoters of any risk.

There have been no convictions and no prosecutions of anyone for promoting/operating loan schemes nor have promoters/operators of schemes been asked to pay a penny, despite making millions.

If HMRC enforce the Loan Charge, it will inevitably lead to thousands of bankruptcies, which makes no sense at all, each one has a cost to the taxpayer and in many cases, for many affected, being declared bankrupt will prevent them from working again or paying any taxes. We are also concerned about the mental health impact, with the fact that there have been suicides of people facing the Loan Charge previously.

We urge you to finally accept that the Loan Charge is not fair and to consider all options to resolve this issue, fairly and practically, once and for all, to end this nightmare for tens of thousands of UK families but also to get HMRC out of the situation they are in, having failed to predict the impact of the Loan Charge. We hope that the Government will explore all options for resolving 'the Loan Charge debacle' which would finally allow the Government, parliamentarians and families affected, to move on.

Yours sincerely,

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Dr Matthew Offord MP
Baroness Meacher
Alan Brown MP
Rt Hon Sir Ed Davey MP
Angela Crawley MP
Marion Fellows MP
Kenny MacAskill MP
Neale Hanvey MP
Andrew Rosindell MP
Drew Hendry MP
Wera Hobhouse MP
Margaret Ferrier MP
Layla Moran MP
Chris Stephens MP
Hywel Williams MP
Paul Girven MP
Neil Coyle MP
Gregory Campbell MP
Derek Thomas MP
Adam Holloway MP
Philip Hollobone MP
Deirdre Brock MP
Rt Hon Sammy Wilson MP
Dr Lisa Cameron MP
John McNally MP
Rt Hon Karen Bradley MP
Richard Thomson MP
Ben Lake MP
Christine Jardine MP
Henry Smith MP
Colum Eastwood MP
Tim Farron MP
Rebecca Long-Bailey MP
Desmond Swayne MP
Gavin Newlands MP
Gavin Robinson MP
Christina Rees MP
Munira Wilson MP
Rt Hon Alistair Carmichael MP
Rt Hon Esther McVey MP
Stephen Metcalfe MP
Chris Law MP
Graham Stringer MP
Ben Everritt MP
Jon Cruddas MP
Greg Smith MP
Stewart McDonald MP
Crispin Blunt MP
Ian Paisley MP
Allan Dorans MP
Sarah Olney MP
Carla Lockhart MP
Wendy Chamberlain MP
Jamie Stone MP
Tommy Sheppard MP
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