HM Revenue & Customs

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The All Party Parliamentary Loan Charge and Taxpayer Fairness Group
c/o Office of Rt Hon. Sammy Wilson
House of Commons
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By email only

25 July 2022

Dear Mr Wilson, Mr Smith and Baroness Kramer,

I refer to your letter of 29 June regarding your concerns that HMRC is not sufficiently addressing the promoters and enablers of tax avoidance schemes.

As I described in my letter of 21 April 2022, HMRC continues to take action against promoters and indeed we are making significant progress in this area. Disguised remuneration schemes seek to avoid tax that is due from the user of the scheme, and our action to counteract this inevitably involves a tax charge on the scheme user, and this is also true of the Loan Charge. However, the Penalties for Enablers of Defeated Tax Avoidance legislation, enacted in Finance (No.2) Act 2017, allows HMRC to charge those who design, manage, market or finance tax avoidance schemes, that we later defeat, penalties of up to 100% of the fees earned. The first First-tier Tribunal has also recently imposed a penalty on a promoter for failing to disclose a scheme under Disclosure of Tax Avoidance Scheme (DOTAS) in excess of £1 million.

The parameters for the Independent Review of the Loan Charge were set out in the Terms of Reference and they are clear that the reviewer would have the final say on the content of the report. The report included a recommendation specifically regarding promoters, which the government accepted.

In line with our promoter strategy, published in March 2020, we use all the tools at our disposal to tackle tax avoidance by disrupting the whole supply chain. In doing so, we are reducing the demand and deterring taxpayers from entering avoidance.

Legislation included in Finance Acts 2021 and 2022 strengthens and accelerates our ability to tackle promoters and enablers of tax avoidance, and the effects of this can already be seen in the public naming of seven promoters, with more to come. Providing details of schemes and promoters as early as possible is helping taxpayers to steer clear of, or exit, tax avoidance.

These new powers have also enhanced our ability to go after the controlling minds behind the schemes and disrupt the promotion structures. Where the controlling minds are outside the UK, we are disrupting their business activity conducted in the UK.

We have also piloted a new approach to tackle promoters who practise phoenixism - switching their businesses from one entity, which becomes insolvent, to another, in an attempt to prevent HMRC collecting tax. Using securities legislation, we recovered £3.8m in 2020/21 and a further £500k in 2021/22 from promoters.

In 2020/21, provisional liquidations and asset freezing orders were used to freeze £12.5m across three payroll companies involved in promoting or enabling disguised remuneration tax avoidance. In one case, there have been subsequent recoveries of £2m and a significant number of properties have been transferred into the control of the liquidator. The combined total assets frozen in these liquidations now totals £40m.

Finally, as you may be aware, in November 2021, the government published a call for evidence on the umbrella company market and how it operates, as we know that many current disguised remuneration avoidance schemes involve the use of an umbrella company. The government is grateful for the responses received, including that from your APPG, and is considering its next steps.

Thank you for taking the time to write to me.

Kind regards,

JHarra

Jim Harra
CHIEF EXECUTIVE AND FIRST PERMANENT SECRETARY