FINANCIAL SECRETARY TO THE TREASURY

HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ

All-Party Parliamentary Loan Charge and Taxpayer Fairness Group
Office of Sammy Wilson MP
House of Commons
London
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28 April 2023

Dear Sammy, Greg, Susan and members of the All-Party Parliamentary Group,

You have shared an open letter addressed to the Prime Minister and the Chancellor of the Exchequer regarding the Loan Charge, published in January. I have been asked to respond on their behalf, as the Minister responsible for the UK tax system.

The Government recognises the impact the Loan Charge can have on taxpayers and it is an area that I continue to engage with closely. Since I was appointed as Financial Secretary to the Treasury in October 2022, I have carefully considered the issue and concerns raised. I have responded to colleagues' letters to explain what the Government and HM Revenue and Customs (HMRC) are doing to support those affected, and to continue to tackle tax avoidance.

The Loan Charge was introduced to draw a line under the historic use of disguised remuneration (DR) schemes which paid income in the form of loans via third parties, often offshore trusts.

Since the Loan Charge was announced at Budget 2016, and by the end of March 2022, around 20,200 employers and individuals who used DR schemes have settled with HMRC to pay the tax they owe, bringing into charge around £3.4 billion. HMRC continues to support taxpayers to resolve their use of DR schemes and get out of avoidance for good, including helping those who need extra support and providing additional time to pay where needed.

The Government listened to concerns about the Loan Charge, and in 2019 commissioned an independent review to consider its impact. The Government recognised the concerns raised by the Review and accepted all but one of the Review's 20 recommendations. This resulted in the Government making significant changes to the Loan Charge to address the concerns Lord Morse highlighted and to reduce its impact.

However, I recognise that taxpayers can still face large tax bills which may have a significant impact. My focus is on understanding the impact of the Loan Charge and engaging with HMRC to understand how they are managing the impacts on those affected. HMRC does not want taxpayers to worry and wants to make the settlement process as straightforward as possible. That is why HMRC is putting support for those affected at the core of its work to collect the Loan Charge and bring cases to settlement. I am committed to managing the impact of the Loan Charge on those affected and will be supporting HMRC in their work to do so.

HMRC can agree an affordable and sustainable instalment plan based on taxpayers' specific circumstances and customers can spread their payment for as long as they need. HMRC can also refer taxpayers for free debt advice that is independent from HMRC.

HMRC will never compel an individual to sell their main home to pay their Loan Charge liabilities and to date, HMRC has not initiated insolvency proceedings against any taxpayer solely for a Loan Charge debt.

Taxpayers are supported by HMRC's trained advisers, including dedicated Extra Support Teams. Where appropriate, HMRC will signpost taxpayers to voluntary and community organisations. HMRC remains committed to strengthening the customer support it provides. For example, HMRC's Extra Support Teams and Samaritans are working together to deliver an 18-month project. This includes providing additional guidance to identify taxpayers who might be in vulnerable circumstances, and signposting them, where needed, to a dedicated Samaritans helpline for specialist emotional help they may need.

Any loss of life is a tragedy, and HMRC takes issues relating to loss of life or serious injury extremely seriously. As HMRC's Chief Executive told the Treasury Committee in his letter of 6 January 2023, HMRC has made ten referrals to the Independent Office for Police Conduct (IOPC) where a taxpayer has sadly taken their life and used a DR scheme. HMRC made the first referral to the IOPC in March 2019.

Following referral, HMRC has conducted internal investigations. Nine investigations have concluded and there was no evidence of misconduct by any HMRC officer. One investigation is currently ongoing. HMRC is committed to, wherever possible, identifying taxpayers who need extra help and giving them the support they need.

The Government has taken firm action to bear down on marketed tax avoidance, including by introducing the Loan Charge. Marketed tax avoidance is still a problem and schemes continue to evolve in an attempt to circumvent tax liabilities. However, the Government's actions are succeeding in narrowing the marketed tax avoidance gap. My focus is on stopping avoidance at source by tackling those who promote and enable avoidance schemes. The Government introduced new measures in recent Finance Acts to enable HMRC to take action more quickly against promoters.

These powers allow HMRC to publish details of promoters of tax avoidance schemes, and others involved in the implementation and operation of such schemes more quickly than before. In some circumstances this includes the director(s) of companies that HMRC suspects are promoting tax avoidance. As of 31 March 2023, HMRC has published details of 27 promoters and 31 schemes. The list can be found at www.gov.uk/government/publications/named-tax-avoidance-schemes-promoters-enablers-and-suppliers. If a tax avoidance scheme is not shown in the GOV.UK list, this does not mean that the scheme works or is in any way approved by HMRC. HMRC does not approve tax avoidance schemes. Publishing this information supports taxpayers in identifying these schemes so that they can steer clear of or exit them.

The Government has yesterday launched a consultation on two further measures to tackle promoters of tax avoidance, which build on the changes made in recent Finance Acts. The consultation covers proposals for:

- the introduction of a new criminal offence for promoters of tax avoidance who fail to comply with a legal notice from HMRC to stop promoting a tax avoidance scheme.
- expediting the disqualification of directors of companies involved in promoting tax avoidance, including those who control or exercise influence over a company.

These proposals reinforce the Government's commitment to ensure promoters face tough consequences for their actions.

HMRC is also taking direct action against promoters and enablers, using its existing suite of powers and penalties, including criminal action where appropriate. Since April 2016 more than 20 individuals have been convicted for offences relating to arrangements which have been promoted and marketed as tax avoidance. These have resulted in over 100 years of custodial, and 9 years of suspended sentences being ordered. HMRC also has individuals under live criminal investigation for offences relating to arrangements promoted and marketed as tax avoidance. These include arrangements categorised as relating to DR and the Loan Charge.

While there are no plans to revisit the Loan Charge policy or for a further independent review, I continue to listen to the concerns raised by you and others. I would urge you to advise your constituents to work with HMRC to resolve their tax affairs and assure them that I continue to give this matter my attention.

Yours sincerely,

Victoria Atkins

VICTORIA ATKINS MP