

DISGUISED REMUNERATION AND THE 2019 LOAN CHARGE

Background

Employee Benefit Trusts (“EBTs”) were created as tax saving schemes and were marketed extensively from the start of the millennium.

Many individuals who took part in EBT schemes believed they were legitimate tax planning arrangements. However, HM Revenue and Customs (‘HMRC’) took a different view and have now been provided with new enforcement powers to recover underpaid tax.

Most EBT schemes allowed an individual to exchange conventional salaried income for an interest-free loan that was subject to neither income tax nor national insurance contributions. One of the key components of an EBT was the understanding that the loans from the Trust would never be required to be repaid.

HMRC have long considered these ‘loans’ should be treated as income and subject to the usual deductions of income tax and national insurance contributions. After a lengthy court battle, HMRC won their landmark case against Rangers Football Club and ever since, have been pursuing the creators and beneficiaries of these so-called ‘disguised remuneration’ schemes.

The 2019 Loan Charge

Created by The Finance Act 2017, the 2019 Loan Charge has been introduced by HMRC to recover unpaid taxes from individuals who benefited from disguised

remuneration schemes involving loans created after 6 April 1999. The Loan Charge is calculated by adding together all outstanding loan sums and taxing the amount as remuneration received in a one-year period. The charge will apply to disguised remuneration loans outstanding at 5 April 2019.

What schemes are associated with the 2019 Loan Charge?

The 2019 Loan Charge is targeting disguised remuneration schemes which involved loans. These include, but are not limited to, EBTs, Employer Financed Retirement Benefit Schemes and Contractor Loan Schemes or Arrangements. It is estimated that there are approximately 250 different disguised remuneration schemes affected by the Loan Charge.

Who needs to pay?

The 2019 Loan Charge applies to anybody who entered into a disguised remuneration arrangement, regardless of their income, employment status, or type of job.

If an employer set up a scheme, then any tax liability will initially fall to them to discharge. If the employer fails to pay the tax demanded, then the employee who benefited from the scheme will become liable. Therefore, if the employer has ceased trading, is insolvent or located offshore, HMRC will seek to collect the tax liability from the employee.



What can you do?

Doing nothing is not an option. Inaction will lead HMRC to apply the Loan Charge on the outstanding loan amount as at 5 April 2019.

If you are affected by the Loan Charge and are unable to settle the tax due, we recommend you seek help from one of CVR Global LLP's experts to discuss the available options.

With many years of experience dealing with the fall out of avoidance schemes, we have developed a good understanding of these schemes and can review your circumstances to advise on the most appropriate option, including:

- Time to Pay Arrangement ("TPA") - HMRC have indicated that provided you meet certain criteria (such as having income under £30,000 a year and no longer engaged in tax avoidance), a seven-year instalment arrangement will be offered on a 'no questions asked' basis.
- Individual Voluntary Arrangement ("IVA") - An option for those who do not qualify for a TPA is IVA. Although HMRC have previously stated that they do not usually accept IVAs in respect of disguised remuneration debts unless it results in 100p in the £ dividend, this stance appears to be softening, and they are now indicating a willingness to consider 'means-based' IVAs.
- Bankruptcy - HMRC have indicated that they will only pursue bankruptcy as a final option where they believe there is an ability to pay and all other settlement attempts have failed.

About CVR Global

CVR Global is a leading independent firm of insolvency practitioners and forensic accountancy experts offering prompt, practical and cost-effective advice.

Our experienced team, based in seven locations across the UK and with two offices overseas, have a reputation for providing friendly accessible help, focused on client needs. If you are looking for a workable solution, then CVR Global can assist.

CONTACT US

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