New scheme to help tackle problem debt, including tax debts

General Features

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The Conservative Party made a manifesto commitment in 2017 to introduce a ‘breathing space’ scheme and a statutory debt repayment plan for those in England and Wales with problem debts. Something similar already exists in Scotland, known as a ‘debt arrangement scheme’.

A call for evidence was published at the end of 2017, followed by a consultation outlining HM Treasury’s proposals. After reviewing the consultation submissions, HM Treasury published details of the new policy in June 2019.

The scheme will be introduced in two parts, with the breathing space part coming into effect from early 2021. The statutory debt repayment plan will be introduced later, at a date to be decided. The regulations governing the breathing space scheme are expected to be laid before the end of this year. It has been confirmed that tax and tax credit debts are included in the scheme.

The breathing space element of the scheme will allow eligible debtors to benefit from a 60 day breathing space period during which almost all creditor enforcement action must be suspended while the debtor takes specialist debt advice. Creditors cannot object to a debtor joining the scheme. Interest and charges that might otherwise accrue are also frozen during the breathing space period.

To qualify for the scheme, the debtor must access debt advice either online, by telephone or face to face and be assessed by a debt adviser as having problem debt. Additionally, they must not have used the scheme in the previous 12 months. Problem debt is a term that will presumably be defined in the legislation in due course. However, it is expected to mean where a debtor is having difficulty paying the debt but there is a realistic chance of entering a debt solution, such as a debt management plan if given time to arrange it. There will be alternative criteria for

accessing the scheme if a debtor is experiencing mental health problems, but these are yet to be finalised.

There are some areas in which it is not yet clear how the breathing space scheme will work in relation to tax and tax credit debt. These debts are generally different to consumer debt in that the accuracy of the quantum of the debt usually has to be checked before options to manage the actual debt itself can be considered. Such checks can often result in reduction (or even cancellation) of the debt. As debt advisers do not usually have the expertise to check tax or tax credit debt in detail, there needs to be a mechanism in place for this to happen before the 60 day breathing space starts.

Also, it is sometimes possible to negotiate a time to pay arrangement with HMRC to clear a debt over a reasonable period of time. We would not want HMRC to withdraw this option when the breathing space scheme is introduced. We will be raising these and other concerns with HM Treasury and HMRC over the next few months.

However, in cases where there is a confirmed tax debt, by entering a breathing space scheme HMRC would have to pause their collection action. This might head off County Court or bankruptcy proceedings if a viable debt management plan is agreed during the 60 day period.