Disguised remuneration loan charge reporting deadline reminder

General Features

01 September 2019

The 30 September 2019 deadline, by which people who face the loan charge must report details of their position, is fast approaching. If your clients are affected by the loan charge, it is important that they meet this deadline, in addition to completing a 2018 /19 tax return.

The loan charge has crystallised a 2018 /19 tax liability for many individuals. As part of our suite of 'plain English' guidance about the loan charge and what to do if you are affected, LITRG have produced an article on the various steps required in order to report and pay the loan charge, which may be helpful to advisers with clients within its scope.

As a first step, everyone (even those where PAYE has now been operated by their employer) must report details of the loan arrangements they used in each tax year to HMRC by 30 September, using the online service on GOV.UK (for which they need a Government Gateway user ID and password). This information reporting requirement is enshrined in law by Finance No 2 Act 2017 Sch 11 Pt 3A.

An agent version of the online form is not available, and agents should not ask individuals for sign-in credentials and use them on their behalf. A paper version of the form can be requested by telephoning HMRC on 03000 599 110.

Details of what needs to be included in the GOV.UK information return can be found in the legislation at paragraph 35D and are summarised in HMRC's guidance on how to report and pay the loan charge.

If full information is not available, HMRC should be given as much information as possible. You or the client may need to contact the trustees of the trust that provided the loans for details.

Completing this form allows HMRC to check the details provided against the information they already hold about a person's loan activity. There are consequences, including possible penalties under paragraphs 35F to 35I of the legislation, if the form is not completed correctly or not at all.

There are self-assessment requirements in addition to the completion of the GOV.UK form – see our article for some pointers on reporting the loan charge in the tax return. There are two extra points to note, set out below.

First, you may be facing questions from clients regarding developments on the loan charge policy itself. In a letter to MPs on 18 July 2019, the Financial Secretary to the Treasury Jesse Norman announced some important clarifications, including:

- HMRC will publish guidance to make specifically clear in relation to the loan charge that HMRC will not seek to tax the same income twice.
- HMRC will take a more collaborative approach to communications about the loan charge, drawing on advice from the CIOT and the Institute of Chartered Accountants of England and Wales, among others.
- HMRC will not apply the loan charge to a tax year where an enquiry was closed on the basis of fully disclosed information.
- HMRC will exercise additional flexibility for individuals settling under the published terms who are in genuine hardship. Where a person has no realistic prospect of paying tax due under the loan charge, HMRC will stop pursuit and leave any unpaid debt to be collected later only if their circumstances improve, in line with current practice.

Secondly, you may also be facing questions from clients about their options in terms of raising funds to pay the loan charge. Should they sell some assets? Should they take a loan? While it may be tempting to try and give clients a steer here given the difficult circumstances, you must avoid straying into giving financial, as opposed to tax, advice, unless qualified and regulated to do so.

Probably one of the most helpful things you can do as an agent at this juncture is to encourage your clients to file their self-assessment as early as possible so that they have certainty over what they owe. Not leaving things to the last minute may also mean that any payment arrangements can be made via the specialist loan charge team, rather than with the Debt Management team who will take over loan charge cases once the 31 January 2020 deadline for payment has passed.