HMRC’s proposed low value debt recovery regime: LITRG and ATT call for stronger safeguards

Management of taxes

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LITRG and ATT have urged the government to ensure comprehensive safeguards are in place before going ahead with proposals that would allow HMRC to recover lower value tax debts directly from taxpayers’ bank accounts using automated processes.

LITRG and ATT have both responded to the HMRC’s recent consultation ‘Proposals to tackle lower value debt’ (tinyurl.com/ypyd8ntv). Both organisations support the overall objective of introducing measures to target tax debts where taxpayers who can pay choose not to engage with HMRC. However, both highlight that the success of the measure depends on HMRC having robust safeguards to ensure they can distinguish between deliberate non-engagement and cases where taxpayers have not responded due to vulnerability, ill health, accessibility needs or because communications have not been received.

LITRG’s response

LITRG’s principal concern is not the use of automation itself, but the risk that automated processes may fail to identify cases where individual consideration is needed. In its response to the consultation, LITRG recommends that HMRC:

- clearly define the circumstances in which cases must be removed from an automated process and referred for human review, including indicators of vulnerability, affordability concerns, disputed liabilities or uncertainty over whether contact has been successful;
- ensure debts are legally due, accurately calculated and correctly reflected across HMRC systems before recovery action begins;
- strengthen safeguards around data matching and information sharing, particularly where joint or nominee accounts are involved;
- explain how affordability will be assessed and ensure that the assessment takes account of taxpayers’ wider financial circumstances;
- introduce a protected minimum account balance;
- extend the proposed 14-day notice period to at least one month;
- provide a clear process for challenging recovery action and accessing alternative debt repayment arrangements such as Time to Pay; and
- consider how the proposals will interact with HMRC’s existing debt recovery powers and wider tax administration reforms.

LITRG is also concerned about the proposed £5,000 debt limit applicable to individuals, and its overlap with HMRC’s existing Direct Recovery of Debts powers. This could result in taxpayers receiving different levels of protection depending on which recovery mechanism HMRC use. Given the significance of the proposals, LITRG considers that further engagement, impact assessment and scrutiny are needed before legislation is introduced.

LITRG’s consultation response can be found at: tinyurl.com/zfecc6ft.

ATT’s response

In its response to the consultation, the ATT recommends that HMRC:

- review the wider debt management process, including addressing cases where debts are pursued incorrectly;
- improve communication and access to HMRC, increase awareness of and access to Time To Pay arrangements, and explore whether initiatives such as the Digitising Post Programme could improve existing processes;
- introduce stronger safeguards, including a requirement to ‘confirm contact’ with taxpayers before they enter the automated deduction process. Where practicable, some form of verified contact should be established before the proposed power can be used;
- extend the proposed 14-day Pre-Deduction Notice period to at least 30 days;
- consider whether a lower ‘upper debt value limit’ than the proposed £5,000 for individuals and £10,000 for businesses would be more appropriate;
- introduce additional affordability protections, including a protected minimum account balance, and ensure deductions do not place a taxpayer into an overdraft or increased borrowing;
- strengthen protections for joint account holders and only recover funds from joint accounts where ownership can be verified;
- allow taxpayers to request reasonable variations to deduction arrangements without pursuing a formal objection; and
- introduce an independent review stage before appeals reach the tribunal or courts, helping to resolve disputes more quickly and proportionately.

The ATT’s consultation response can be found at: tinyurl.com/nwmmsn7n.

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