The 5 April 2019 loan charge - guide for the self-employed

In 2017 the Government passed legislation which imposes a 'disguised remuneration' charge upon loans from EBTs, EFRBS and similar arrangements. The 'Loan Charge' applies to any individual who received a loan via a disguised remuneration scheme on or after 6 April 1999 that was still outstanding on 5 April 2019.

The purpose of this guide is to explain the implications of the loan charge for self-employed individuals who have been paid by way of loans via a 'trade based scheme' and how tax liabilities are to be assessed/reported.

Background

EBTs and similar schemes were commonly used in the past as a way of rewarding employed and self-employed individuals. The typical trade based scheme involved an individual carrying out a contract for services whereby payments would be routed through a trust, usually offshore. The trust would then make loans to the individual.

HMRC's view is that such schemes are tax avoidance arrangements seeking to avoid income tax and National Insurance ('NIC') by paying scheme users their income in the form of loans.

The introduction of 'disguised remuneration' rules in 2010 generally closed off this type of arrangement. However, HMRC had no ability, outside the scope of normal enquiries, to assess previous loan arrangements to tax. As a result, the Government legislated to introduce the Loan Charge.

What is the loan charge?

The loan charge operates by treating the outstanding amount of any loans on 5 April 2019 as if it was the individual's earnings on that date. The amount will therefore be subject to income tax and potentially NIC in the 2018/19 tax year.

Taxable amount

The amount that is taxable is the total of all the loans and credits (including 'quasi-loans' – acquired debt) provided since 5 April 1999 and still outstanding on 5 April 2019.

In addition, anti-forestalling arrangements were put in place so that after **4 December 2016** loan repayments had to be made in cash and not as part of a further tax avoidance scheme in order to avoid the loan charge.

Implications for individuals

Individuals who have received loans when self-employed or when they were a partner in a trading partnership must enter the relevant amount on the self-assessment tax return. The reporting requirement will differ depending on whether or not the trade is still ongoing.

a) Trade still ongoing

If the trade in which you received the loans continues trading in the tax year 2018/19 then the loans should be included as 'disguised remuneration additions to profits' in box 75.1 of the self-employment page (SA103) of the tax return.

b) Trade ceased between 6 April 2012 and 5 April 2018

If the trade ended on or after 6 April 2012 but before 6 April 2018 there are two options.

The first option is to include the amount as taxable in 2018/19. If so, it should be included in Box 22 on page Ai4 of the Additional Information section (SA101) as 'self-employed or partnership income where the trade has ceased'.

Alternatively, HMRC will allow loans to be treated as taxable income in the tax year in which the trade ended. In this case, instead of completing box 22 on page Ai4 of the Additional Information section (SA101) the individual should instead complete boxes 23 and 24.

c) Trade ceased before 6 April 2012

If the trade ended before 6 April 2012, the total loan amount should be included in Box 22 on page Ai4 of the Additional Information section (SA101) as 'self-employed or partnership income where the trade has ceased'.

The tax return must be submitted to HMRC by **31 January 2020** with the tax payable on the same date.

Other reporting requirements

In addition to the above, employees are required to make a report to HMRC by **1 October 2019** to disclose details of their disguised remuneration loans. Our separate guide on 'Reporting disguised renumeration loan charges' provides further details.

How we can help

If you are an individual affected by the loan charge, or if you have a client who is affected and need advice and/or assistance in completing tax returns then please contact us.

To discuss how we can help, please contact:

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