



HM Revenue & Customs

Mr Simon Gray

By email:

request-479145-10ce5b95@whatdotheyknow.com

Counter-Avoidance

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Date: 27 April 2018

Our ref: FOI2018/00851

Dear Mr Gray

Freedom of Information Act 2000 (FOIA)

Thank you for your request, which was received on 19 April, for the following information:

“How will HMRC calculate the amounts subject to tax on the 2019 loan charge. I have read several articles that state that HMRC officers are being told to charge on a gross basis (ie ignoring fees charged by the entity issuing the loan).

This would seem wrong on 2 levels.

A loan is the amount received not the amount grossed up for charges. These charges will have been subject to corporation tax already (double taxation).

Please clarify HMRC's position on this.”

Under section 21 of the FOIA, we are not required to provide information in response to a request if it is already reasonably accessible to you. The information you seek is in schedule 11, part 1, of the Finance (No. 2) Act 2017, which is published on the GOV.UK website at the following link:

<http://www.legislation.gov.uk/ukpga/2017/32/schedule/11/part/1/crossheading/meaning-of-outstanding-loans>

Outside of the FOIA

To be helpful and outside of the FOIA, customers who wish to discuss settlement of any disguised remuneration exposure can use their normal HMRC contact. If you do not have an HMRC contact you may use our dedicated Contractor Loans helpline on 03000 534226, or email cl.resolution@hmrc.gsi.gov.uk.

Background

At Budget 2016 the government announced a package of changes to tackle disguised remuneration. The changes are part of a wider commitment to crack down on tax avoidance to ensure companies and individuals pay their fair share of tax.

One of the changes announced and confirmed in Finance No 2 Act 2017 is a new charge on disguised remuneration loans which are outstanding on 5 April 2019. This charge will not apply where the loan has been repaid in full or the scheme user has agreed settlement of all related liabilities with HMRC before 5 April 2019 and either paid in full or agreed a payment

arrangement which they complete in full. This gives a short period of grace to avoid the new charge being triggered.

Scheme users are therefore encouraged to consider settlement before 5 April 2019.

You may be interested to know that HMRC have published terms on which they are prepared to settle the tax from disguised remuneration in advance of the loan charge taking effect on 5 April 2019, information is available at:

<https://www.gov.uk/government/publications/disguised-remuneration-detailed-settlement-terms/disguised-remuneration-detailed-settlement-terms>

More information on changes to the disguised remuneration rules is available at:

<https://www.gov.uk/government/publications/tackling-disguised-remuneration-technical-update/tackling-disguised-remuneration-technical-update>

If you are not satisfied with this reply you may request a review within two months by emailing foi.review@hmrc.gsi.gov.uk, or by writing to the address at the top right-hand side of this letter.

If you are not content with the outcome of an internal review, you can complain to the Information Commissioner's Office. You can do this by accessing the following link:

<https://ico.org.uk/concerns/>

Yours sincerely,

Freedom of Information Team