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Ref:14/0341

Freedom of Information Act 2000: Bankruptcies due to Accelerated Payments

Thank you for your Freedom of Information enquiry of 17th April 2014, which we received on 22nd April.

You asked for information covering –

Re. Finance (No. 2) Bill, Part 4, Chapter 3 – Accelerated Payment

I am trying to find out if taxpayers could be bankrupted if they can't pay accelerated payment notices.

Do you hold any information on this?

I can confirm that HM Treasury does hold information in scope of your request and I have provided the information below in relation to accelerated payments including some background on this.

The government is determined to keep up the pressure on tax avoidance. Since 2010 the Government has introduced a number of new measures, including new rules on 'disguised remuneration', the General Anti-Abuse Rule, and legislation to close a number of avoidance loopholes. For example, a loophole was closed involving corporate debt buy-backs in February 2012, and in December 2012 the government acted within a week of a disclosure to close a loophole that tried to exploit property business loss relief. Government actions on avoidance will protect billions of pounds in tax that would otherwise be lost to the Exchequer. Tackling avoidance schemes is an important part of HMRC's overall compliance effort, which has secured more than £65 billion in compliance yield since the start of this Parliament. The government has been clear throughout that the small minority who try to avoid tax must not be allowed to try to pass the burden onto the compliant majority.

These new measures continue the Government's work to tackle tax avoidance – dealing with schemes that have been put together with the aim of paying less tax than Parliament intended, often a great deal less. In a large number of these cases the Exchequer has waited a long time for this tax, and in the meantime the vast majority of people have been paying their tax upfront, for example through PAYE. The Government therefore believes it is time to apply the general tax approach of 'pay now

dispute later' to tax avoidance schemes, bearing in mind that HMRC already withholds repayments in disputed tax cases.

There is no reason why those who seek to avoid tax should not, like the vast majority of taxpayers, await the outcome of any dispute over a claim that they are owed money. Anyone who believes that their tax avoidance scheme works will still be able to pursue their claim in the courts. And, if they win, HMRC will repay the tax with interest. But HMRC's success in avoidance litigation shows that only a small minority of avoidance schemes are upheld in the courts. It is fair that tax should sit with the Exchequer rather than the taxpayer during a dispute into tax avoidance.

These schemes are highly speculative – HMRC puts out a lot of material to warn taxpayers about the risks and consequences. Anyone entering into a scheme in future should make sure they have the money to pay the tax up front.

HMRC will issue clear pay now notices to taxpayers setting out how much needs to be paid. In cases of genuine hardship, HMRC will consider alternative payment arrangements as they do with any debt. The priority in cases of genuine hardship will be to get people onto a payment track so that the debt is paid as quickly as possible.

HMRC will always ensure that its action is proportionate. Where individuals do not immediately have the cash, it may be appropriate in some instances to back up a payment arrangement with a security against assets. In cases where, for instance, individuals have taken deliberate action to put their assets out of the reach of HMRC so that they cannot pay the tax, bankruptcy action may be appropriate. But the particular action will always depend on the precise facts and circumstances of the particular taxpayer.

If you have any queries about this letter, please contact me. Please quote the reference number above in any future communications.

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Email FOI.responses@hmtreasury.gsi.gov.uk

It would assist our review if you set out which aspects of the reply concern you and why you are dissatisfied.

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The Information Commissioner can be contacted at: The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

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