HM Revenue & Customs

Individuals Policy Directorate
Freedom of Information Team
S1715
6 Floor
Central Mail Unit
Newcastle Upon Tyne
NE98 1ZZ

Email foi.request@hmrc.gsi.gov.uk

Web www.gov.uk

Mr Graham Webber

By email: request-511476-03f39ccb@whatdotheyknow.com

Date: 31 August 2018
Our ref: FOI2018/01856

Dear Mr Webber

Freedom of Information Act 2000 (FOIA)

Thank you for your request, which was received on 20 August, for the following information:

"On 22nd November 2017, HMRC published an impact statement on the expected effects of the loan charge. This is at the following link.

https://www.gov.uk/government/publications/disguised-remuneration-further-update/disguised-remuneration-further-update

We would request sight of the data supporting the conclusions reached, in particular the claims that:

Economic impact
This measure is not expected to have any significant macroeconomic impacts.

Impact on individuals, households and families This package is not expected to have a material impact on family formation, stability or breakdown.

These are critical elements in persuading Parliament to adopt the policy suggested by HMRC and should be examined carefully.

Further the impact statement predicted tax collection of £2.42bn. Can HMRC confirm that this includes the likelihood that some 40% of those affected will be unable to pay the tax demanded?

Further, Mr Jon Thompson of HMRC has recently written to MPs indicating that the measure will collect £3.4bn of tax. Can HMRC please explain and release a new impact statement that explains this jump of £1bn in expected recovery?"

I can confirm that HMRC hold some of the information you have requested. Some of the information is exempt from disclosure under s35 (1)(a) of the FOIA.

This information is exempt from disclosure under s35 (1)(a) of the FOIA because the information relates to the formulation of government policy. The requested documents provided evidence and advice from which the government formulated and developed its policy response to disguised remuneration (DR) schemes. The government is currently considering how best to implement and enforce the loan charge when it arises in April 2019.

In line with the terms of this exemption in the FOIA, we have also considered whether it would be in the public interest for us to provide you with the information. In this case, we have concluded that the public interest favours withholding the information.

When assessing whether or not it was in the public interest to disclose the information to you, we took into account the following factors.

There is an inherent public interest in transparency and accountability of public authorities. We also recognise the broad public interest in furthering public understanding of the issues which public authorities deal with, such as the analysis you have requested.

However, there is a public interest in protecting the government's ability to consider and develop policies and to reach well-formed conclusions. The Information Commissioner has recognised that policy development needs a degree of freedom to enable the process to work effectively and we consider that there is a strong public interest in protecting information where its release would be likely to have a detrimental impact on the ongoing development of the policy.

There is also a public interest in preserving a 'safe space' to debate live policy issues away from external interference and distraction is highest during the formulation and development stages. Disclosure at this time may cause unhelpful debate based on an incomplete picture of the policy and the relevant statistics. That in turn may distract officials from developing the policies effectively and may close off better options from being considered.

There is a strong public interest in protecting against encroachment on the ability of ministers and officials to develop policy options freely and frankly. In this case, the government is currently considering how best to implement and enforce the loan charge.

We reached the view that, on balance, the public interest is better served by withholding this information under Section 35 (1) (a) of the Act at this time.

However, you may find the following information helpful.

The Tax Information and Impact Note (TIIN) you refer to, published at Autumn Budget 2017 says 'this measure is not expected to have any significant macroeconomic impacts'. Given the specific targeting of the charge on disguised remuneration (DR) loans on the very small minority of businesses and individuals who have used DR tax avoidance schemes, the charge is not expected to have a significant effect on the economy.

The TIIN also says 'this measure is not expected to have a material impact on family formation, stability or breakdown'. It is estimated that up to 50,000 individuals will be affected by the charge on DR loans. The TIIN assesses the impact of the charge on DR loans across the entire UK population, of which affected tax avoidance scheme users makes up a very small minority – only 0.2% of individual income tax payers in the UK.

The TIIN also contains an estimate of the Exchequer impact. This includes an inbuilt assumption to approximate the value of tax receipts lost due to non-payment of the charge on DR loans. The assessment is not made on an individual level, so we do not hold an estimate of the proportion of those affected who will be unable to pay the tax demanded.

Finally, the TIIN you have referred to includes two tables under 'summary of impacts'. The tables collectively estimate the amount of revenue raised by the employed and self-employed charges at £3.2 billion. We are not aware of Jon Thompson using any other figures with regards to the revenue raised by the charge on DR loans. The issue briefing, published on 18 July 2018, also states that the policy raises £3.2 billion for the Exchequer.

For more information please see the issue briefing:
https://www.gov.uk/government/publications/hmrc-issue-briefing-disguised-remuneration-charge-on-loans/hmrc-issue-briefing-disguised-remuneration-charge-on-loans

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. The following link explains how to do this: https://ico.org.uk/concerns/

Yours sincerely,

Freedom of Information Team