



HM Revenue
& Customs

Individuals Policy Directorate
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Date: 10 July 2018
Our ref: FOI2018/01219

Dear Sir/Madam,

Freedom of Information Act 2000 (FOIA)

Thank you for your requests, which were received on 12 June, for the following information:

“How many individuals have been formally notified of this change in the law - considering this new legislation applying 20 yrs retroactively will affect many thousands lives?”

“Are HMRC and Ministers aware that there is widespread use of schemes by healthcare workers and the NHS and that nurses and other frontline NHS staff will be bankrupted by this charge?”

If so, what is the expected impact on the NHS?

How is this exacerbated with immigration caps?

How will HMRC counteract this negative impact on both, the NHS and individual healthcare professionals?

“Has there been an impact assessment carried out to determine the scope and scale of UK wide industry sectors affected by the 2019 Loan Charge and what impact this will have on the economy as a whole? If not, why not?”

If so, please provide details of the outcome of the impact assessment.

“How many individuals are subject to the loan charge and how is this broken down by industry sector (i.e. IT consultants, NHS workers, oil + gas contractors, supply teachers etc)?”

“Please explain the view of Rt Mel Stride why the 2019 Loan Charge is considered by HMRC to be “new legislation” that applies retroactively?”

“How can an individual owe tax on a year that is closed and protected from adjustment by law?”

“Can HMRC and Ministers comment on ICAEW's statement that the loan charge “...contravenes generally accepted notions of fairness, breaks the constitutional convention against retrospective legislation and imposes tax charges in cases where taxpayers already had legal certainty that no tax was due”?”

“Of those individual freelancers affected by the loan charge, for how many are HMRC pursuing the employer?”

Information is available in large print, audio and Braille formats.
Text Relay service prefix number – 18001



“Of those impacted by the 2019 Loan Charge, how many have been identified as 'vulnerable', or reported as having mental health/distress problems?”

“Of those individuals impacted by the 2019 Loan Charge, how many have self-assessment or tax returns which (according to HMRC rules) are out of time for enquiry?”

Under section 12(4) of the FOIA, with reference to regulation 5 of the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004, when estimating the cost of complying, HMRC may aggregate two or more requests made by the same person, when the same or similar information is requested and where those requests are received within a period of sixty consecutive days (see the links below).

- <http://www.legislation.gov.uk/ukpga/2000/36/section/12>
- <http://www.legislation.gov.uk/uksi/2004/3244/regulation/5/made>

I am therefore aggregating your requests and this response covers them all. I can confirm HMRC holds some information that falls within the scope of your requests. However, we estimate that it would exceed the FOIA cost limit to deal with them. The cost limit, which is specified in regulations, equates to one person spending 3½ working days locating and extracting all of the information within scope of the request.

Normally, HMRC would explore with you how you might be able to narrow or refine your request so that it did not exceed the FOIA cost limit. However, in this case, I cannot see any scope for doing this.

HMRC published detailed settlement terms on 7 November 2017 as part of a campaign to encourage taxpayers to come forward and settle their tax affairs ahead of the loan charge introduction. We notified these taxpayers through letters, emails, phone calls, and in webinars. To provide a figure for the total number of individuals formally notified would mean searching manual and electronic records across a number of HMRC systems. We would have to review each record to identify the method of notification and the date that action took place.

I have established that the time necessary to complete this task would exceed the cost limit by some way. Consequently, under section 12(1) of the FOIA, HMRC is not obliged to comply with your request and we will not be processing it further.

Although I am unable to answer your FOIA request, I can provide some information outside of the Act on a discretionary basis.

Outside of the FOIA

The ‘Disguised remuneration: further update’ tax information and impact note (TIIN), which outlines HMRC’s expected impact of the charge on disguised remuneration (DR) loans, can be found at <https://www.gov.uk/government/publications/disguised-remuneration-further-update/disguised-remuneration-further-update>

Pay As You Earn (PAYE) liabilities fall on the employer in the first instance. The charge on DR loans will not change this principle and HMRC will pursue employers who have used DR schemes for the tax that is due. HMRC will only go to the employee to settle their income tax liability in cases where it cannot reasonably be collected from the employer, for example where the employer is no longer in existence. More information is available at: <https://www.gov.uk/government/publications/disguised-remuneration-transfer-of-liability-technical-note/tackling-disguised-remuneration#transfer-of-liability>

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 faithfully,

Individuals Policy Directorate