

30 September 2021 deadline for disguised remuneration repayment applications

In recent years, HMRC sought to crack down on those who had historically received disguised remuneration, colloquially known as 'contractor loans'. Broadly, this was remuneration paid to the employee in the form of a loan in order to avoid income tax and National Insurance contributions.

Such payments were often made through an Employee Benefit Trust. In a period to 30 September 2020, HMRC offered a choice to those who had received a 'contractor loan':

1. pay the loan charge as defined by legislation
2. agree a settlement with HMRC through the settlement opportunity offered by them

What were these options?

The loan charge was a one-off tax charge declared and paid in the 2018/19 tax year based on the amount of all relevant outstanding loans as at 5 April 2019. In many cases this tax charge related to loans made in several tax years and was therefore punitive, pushing the individual's taxable income in 2018/19 into the higher and additional rates of tax.

By contrast, the settlement opportunity made good the tax in the tax years in which the loans were made. Whilst this method incurred late payment interest, individuals often had portions of their basic and higher rate tax bands remaining in those tax years due to the loans. In many cases, settlement was the cheaper overall option.

What has happened since?

The loan charge received lots of attention, including discussion in Parliament, and in 2019 a review into this legislation was commissioned.

The review, published in December 2019, recommended changes which were accepted by HMRC. These included spreading the loan charge over three tax years, more flexibility with regards to payment plans and most importantly, removing certain loans from the scope of the loan charge.

Loans outside the scope as a result of the review were all loans made before 9 December 2010 and those made between 10 December 2010 and 5 April 2016 where 'reasonable disclosure' was made to HMRC (It should be noted that in both scenarios the loan charge may still apply if HMRC has protected its' position with compliance action e.g. opening an enquiry or issuing assessments or determinations within the prescribed time limits).

The Repayment Opportunity

Flowing from the review there were a number of taxpayers who had previously reached a settlement with HMRC but who would no longer be subject to the loan charge. To recognise such cases, HMRC introduced a repayment scheme to repay some or all of the settlement.

What can be done?

HMRC should by now have written to those affected with instructions of how to apply for a refund, although in our experience this has not happened in every case or the letter may have been missed.

The final closing date for this repayment scheme is 30 September 2021, after which individuals will not be able to obtain a repayment from HMRC, even if their circumstances dictate they are eligible for such a repayment.

If you received a 'contractor loan' where settlement was made with HMRC and have not been contacted by them, you need to ensure that you do not miss out on a repayment opportunity to which you are entitled and that the correct amount is repaid to you. To achieve this, we recommend seeking professional advice. For an initial discussion on whether you may be entitled to repayment, please contact the [Tax Disputes and Resolutions team](#) at haysmacintyre.

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