

Appendix 2 – Anonymised Disguised Remuneration Case Studies

1. Adrian: 63 year-old software developer from Surrey

- Adrian used two avoidance schemes between 2010 and 2013 which claimed to offer between 85%-90% take home pay.
- For both schemes Adrian signed loan agreements to effect the arrangements.

Scheme one

- In 2010-11 Adrian used an offshore service company scheme which was disclosed under DOTAS. As part of the scheme Adrian became an employee of a partnership resident in the Isle of Man.
- Under the arrangements Adrian received a monthly payslip which showed a lower amount of employment income subject to tax and NICs as well as a loan amount from which no tax or duties were deducted.
- HMRC received a tax return for 2010-11 on 31/01/2012. Adrian declared £6,500 as employment income, which was the salary he received.
- He did not declare the additional loan payments of £35,000 and no tax was paid on this amount. He did disclose the DOTAS reference number for the scheme.
- HMRC opened an enquiry into the 2010-11 return on 13/12/2012 and established tax due on the loan payments of £15,000.
- In May 2015 Adrian expressed an interest in settling in respect of this scheme as part of the Contractor Loan Settlement Opportunity. Settlement was reached on 16/06/2015 and Adrian paid all of the £15,000 outstanding on 08/07/2015. No penalty was charged and no extended payment arrangement was sought.

Scheme two

- In 2011-12 and 2012-13 Adrian used a self-employment scheme which was not disclosed by the promoter under DOTAS.
- As part of the scheme a payment of £78,500 was made into a trust based in the Isle of Man. The trust took a 15% fee for their services and then made payments totalling £67,000 to Adrian described as 'loans to the contractor'.
- HMRC received tax returns for 2011-12 on 20/01/2013 and for 2012-13 on 29/11/2013. Adrian declared a total of £9,400 of self-employment income in these two tax returns.
- The payment of £67,000 was not declared and no tax was paid in relation to this sum. Similarly, the use of the scheme was not disclosed in either tax year.
- In 2015 HMRC began to challenge the arrangements which Adrian had entered into after reviewing his tax returns. Due to HMRC being out of time to amend the returns, discovery assessments were issued on 11/01/2016 for 2011-12 and on 02/03/2017 for 2012-13 respectively.

Settlement

- As closure notices were about to be issued across the scheme with a view to tax the loan payment, Adrian received a letter on 19/03/2018 in advance inviting settlement. He settled by way of contract settlement on 03/05/2018.
- Tax avoided as a result of this scheme use amounted to £28,500 plus interest of £3,000. Adrian had already made a payment on account of £31,000 on 09/03/2018. He paid the remaining £500 to settle his liabilities in respect of 2011-12 and 2012-13 on 09/05/2019. No penalties were charged.

2. Beth: 34 year-old social worker from Manchester

- When Beth entered into a contract to supply services to a Local Authority in January 2017, she did so through an umbrella employment scheme.
- The Local Authority was an independent third party with no connection to the scheme promoter. The scheme was not disclosed under DOTAS.
- Before entering into these avoidance arrangements, Beth worked through a Personal Service Company and received on average £35,000 per year as a mixture of employment income and dividends.
- Beth was then introduced to the umbrella scheme by a recruitment agency specialising in the placing of healthcare staff.
- The agency sent emails advising that following changes to legislation in respect of public sector limited company wages there was an alternative which would offer a high take home pay percentage. They noted that most of their locums were with umbrella companies and many with the promoter of this scheme.
- The agency claimed via email that the promoter was audited and approved by HMRC, which was not true.
- Beth signed a facility agreement which set out how she would receive her funds; it promised to transfer the loan to Beth at her request. Beth began to receive her payslip by email each week and this reflected a National Minimum Wage salary. On the same day, she received a loan payment.
- Beth received minimal information upon joining the scheme and it was largely by way of telephone or email.
- Beth declared a total of £11,000 of employment income in total for her 2016-17 and 2017-18 tax returns which we received on 28/09/2017 and 18/01/2019 respectively.
- The remainder of her income was made up with loan amounts despite there being no mention of loans awarded in the employment contract.
- Loan payments in the two tax years totalled £25,000 which was not declared and no tax was paid in relation to this sum.
- Similarly, the use of the scheme was not disclosed in either tax year.
- In 2018 HMRC began to challenge the arrangements which Beth had entered into after reviewing her tax returns and identifying features which were typical of this type of avoidance.
- On 29/05/2018 an enquiry was opened into the 2016-17 tax return. Following receipt of information in June 2018 HMRC wrote to Beth on 21/08/2018 to advise of the deficiency in tax and invited settlement.
- Tax avoided as a result of this scheme use amounted to £5,300 in total for 2016-17 and 2017-18.

Settlement

- Settlement was reached on 11/01/2019. As Beth was yet to submit her 2017-18 return, and was still in time to do so, she entered £19,000 of loans as employment income and was taxed accordingly.
- The remaining £6,000 of loans were settled by way of contract settlement. Tax, student loan payment and interest due on this totalled £1,500 and a flexible payment plan was put in place for Beth.
- Initial lump sum of £500 was required by 05/04/2019, followed by equal monthly instalments of £55 for 18 months.

3. Colin: 52 year-old pharmaceutical consultant from London

- Colin used two tax avoidance schemes between 2003-04 and 2009-10.
- The transactions for the two schemes were exactly the same - the promoter simply moved the scheme arrangements from Ireland to the Isle of Man as a result they are treated as separate schemes despite the second being a continuation of the first.
- Both of the schemes Colin used were designed to allow the user to retain more of their pay than they would as an ordinary employee, self-employed trader or a director of their own company. Colin signed loan agreements to effect the arrangements.

Scheme one

- In 2003-04 and 2004-05 Colin used an employment scheme which was disclosed under DOTAS.
- As part of the scheme Colin received bonus replacement payments by way of loans from an offshore trust. He was paid a salary and then received additional loan payments totalling £105,000 from the offshore trust over the two tax years.
- HMRC received a tax return for 2003-04 on 26/07/2004. No enquiries were opened into this return.
- In October 2004 Colin's SA record was closed down by HMRC following automatic selection. It was not reopened until 14/04/2008 as Colin's employer advised us that there was a declared benefit made to Colin.
- As such the 2004-05 return was received on 29/04/2008 and an enquiry in accordance with Code of Practice 8 was opened on 30/06/2009.
- For 2003-04 Colin declared £21,500 as employment income, which was the salary he received. An additional £45,000 was paid to him as a bonus replacement from the trust.
- For 2004-05 Colin declared £24,500 as employment income. An additional £60,000 was paid from the trust as a bonus replacement in respect of this tax year.
- He did not declare the additional loan payments totalling £105,000 and no tax was paid on this amount.
- Colin also did not disclose the DOTAS reference number on his 2003-04 nor 2004/05 returns.

Scheme two

- From 2005-06 to 2009-10 inclusive Colin used an employment scheme.
- The scheme was not disclosed by the promoter under DOTAS.
- As part of the scheme Colin received payments by way of loans from an offshore trust. He was paid a salary and then received additional loan payments totalling £495,000 from the offshore trust over the five tax years.
- For 2005-06 and 2006-07, we received both returns on 29/04/2008 (alongside the 2004-05 return). Enquiries in accordance with Code of Practice 8 were opened into these returns on 30/06/2009.
- For the 2007-08 tax year, the return was received on 21/07/2008 and enquiry in accordance with Code of Practice 8 was opened 01/07/2009.
- For 2008-09, the return was received on 20/07/2009. We did not open an enquiry and so instead issued a discovery assessment on 15/02/2013 due to the inaccuracy in Colin's return as a result of careless behaviour.
- For 2009-10, the return was received on 13/08/2010. We did not open an enquiry and so instead issued a discovery assessment on 19/11/2013 due to the inaccuracy in Colin's return as a result of careless behaviour.

- The following table shows how much Colin declared as employment income in each year of using Scheme Two and the total loan payment he received for each tax year, which was not declared.

Tax year	Declared employment income	Loan payment
2005-06	£19,000	£100,500
2006-07	£24,000	£110,000
2007-08	£32,000	£95,500
2008-09	£37,000	£79,000
2009-10	£37,000	£110,000

Settlement

- On 22/05/2015 HMRC sent Colin a notice about his Accelerated Payment that was due for payment by 10/08/2015.
- On 03/07/2015 we wrote to Colin inviting him to settle under the Contractor Loan Settlement Opportunity and provided information about how to settle his affairs. Colin did not settle his tax liabilities at this stage.
- On 19/12/2017 HMRC wrote to Colin inviting settlement once more and this time Colin engaged fully in settlement discussions.
- On 14/09/2018 settlement was reached for all years in which the avoidance scheme was used. Settlement was reached by way of contract settlement as per the DR terms published in November 2017.
- For 2003-04 HMRC had not protected the position and had neither an open enquiry nor a discovery assessment in respect of the return for this year. As such, Colin settled by way of voluntary restitution so no interest was charged. Interest was applied to all other years.
- The total liability that settlement was reached on was £296,000.
- Colin made six payments on account totalling £107,000 during August 2015. The remaining £189,000 was paid in full in October 2018.

4. Gurpreet: 54 year-old IT consultant from Bristol

- Gurpreet entered into an employment income tax avoidance scheme which he used in 2009-10 and 2010-11. The scheme was disclosed by the promoter under DOTAS.
- As part of the scheme Gurpreet became an employee of a partnership resident in the Isle of Man. The scheme advertised that users could take home 90% of their pay.
- Gurpreet signed a loan agreement when he entered into the scheme. This meant that he received a monthly payslip showing a lower amount of employment income subject to tax and NICs as well as a loan amount from which no tax or duties were deducted.
- HMRC received Gurpreet's 2009-10 tax return on 28/09/2010. Gurpreet declared £14,200 employment income which was the salary received. He did not declare the additional loan payments which totalled £154,000 for 2009-10.
- We received Gurpreet's 2010-11 return on 28/01/2012. Declared employment income for this year was £11,500 which was the salary received. Gurpreet did not declare additional loan payments totalling £191,900 for 2010-11.
- For both years, Gurpreet did disclose the DOTAS reference number for the scheme on his return.
- We opened an enquiry into the 2010-11 return on 05/12/2012. We did not open an enquiry for 2009-10 and instead issued a discovery assessment due to the inaccuracy in Gurpreet's return as a result of careless behaviour.

Settlement

- On 13/04/2015 HMRC wrote to Gurpreet to invite him to settle in respect of this scheme as part of the Contractor Loan Settlement Opportunity. Gurpreet did not settle his tax liabilities at this time.
- Gurpreet expressed an interest in settlement in January 2018. Calculations were issued on 25/01/2018.
- Settlement was reached by way of contract settlement on 26/03/2018 for a total £154,000, which included £17,500 interest.
- Gurpreet had already paid Accelerated Payment Notices in 2015 so the remaining amount to pay was £78,000. This amount was paid in full in April 2018.
- Instalment arrangements were not put in place and no penalties were charged.