

# REVIEW OF THE DISGUISED REMUNERATION LOAN CHARGE

## Terms of Reference

### Introduction

The Chancellor has commissioned an independent review of the Disguised Remuneration Loan Charge (hereon 'Loan Charge').

The Loan Charge is a policy designed to tackle contrived tax avoidance schemes where a person's income is paid as a loan and not repaid. The government is clear that these schemes do not work, that wages paid in this way have always been taxable, and that the underlying tax avoidance behaviour is unfair to the 99.8 percent of taxpayers who did not use these schemes. The Loan Charge was introduced following 20 years of action against these schemes, which despite considerable action continued to proliferate and be used.

However, the government recognises that concerns have been raised about the Loan Charge policy as a mechanism for drawing a line under these schemes, including claims that the policy is retrospective; the government is therefore commissioning this independent review to consider the impact of the Loan Charge on individuals who have directly entered into disguised remuneration schemes.

While the Review is ongoing, the Loan Charge remains in force, in line with current legislation; the government will consider the outcome of the Review once concluded and will respond in due course.

### Scope and Objectives

The Reviewer, with the support of a secretariat, is being asked to draw on the available evidence and their expertise, engaging as appropriate with stakeholders, to consider:

- whether the Loan Charge, as it applies to individuals who have directly entered into disguised remuneration schemes, is an appropriate response to the tax avoidance behaviour in question;
- whether changes announced by the government in advance of, and since, the Loan Charge came into effect address any legitimate concerns that have been raised about the impact on individuals, including affordability for those affected.

The Review is focused on the impact of the Loan Charge on individuals who have directly entered into disguised remuneration schemes.

In considering its recommendations, the Review must also take account of:

- the impact on wider taxpayer fairness;
- HMRC's ability to tackle tax avoidance effectively in the future.

### Timing and Recommendations

The Review will report and provide independent recommendations to the Chancellor of the Exchequer and the Financial Secretary to the Treasury by mid-November.

The Review's conclusions will be published in a report. The timing and manner of the publication will be determined by the Chancellor of the Exchequer; the Reviewer is expected to use their discretion and will have the final say on the content of the report.

Annex:

- *Appointment of the lead reviewer:* the Reviewer will be appointed by the Chancellor of the Exchequer.
- *Resource:* they will be supported by a team of officials, drawn from HM Treasury (HMT) and Her Majesty's Revenue and Customs (HMRC). The number of people working on the Review, and the amount of their time spent, will be agreed between the Director of Personal Tax, HM Treasury, and the Reviewer prior to the start of the Review.
- *Information:* HMT and HMRC must make all possible efforts to support the Review team's work, including providing them with any information that they request, unless there is a legal reason why they cannot do so, which must be detailed to the team. If there is an administrative reason why it is not possible – such as the disproportionate time required to produce the information – then the Reviewer has the right to raise this issue to the Director Personal Tax, HM Treasury, who then can then make a final decision, following consultation with HMRC.
- *Governance:*
  - o The Reviewer has the final say on what is published in the report.
  - o It will be for the Reviewer to decide what arrangements are needed to engage with stakeholders during the Review.