

The lesson from the loan tax charge

The controversy surrounding the loan charge deadline is a reminder of the dangers of aggressive tax planning.

If you were offered a way of being paid a 'salary' that involved no income tax and no national insurance contributions (NICs), what would you think?

In the late 1990s and early 2000s, many contractors and consultants were offered the option of joining schemes which purported to make tax and NICs disappear. At the time, some decided the chance was too good to miss. Their choice was often in response to IR35, the HMRC crackdown on people sidestepping taxation as employees by claiming self-employment or operating via one-person companies. The schemes promoted had various structures, but one key factor was that they relied on earnings being replaced by low or nil-interest loans that were never intended to be repaid – hence the schemes often being described by HMRC as “Disguised Remuneration Schemes”.

HMRC never approved these schemes but took their time to act against them. Blocking legislation for new loans was announced in 2010, by which time HMRC was already challenging some schemes through the courts. However, it was not until 2016 that the then Chancellor, George Osborne, introduced legislation that treated the amount of any loans outstanding at 5 April 2019 as income. It is that measure which has recently brought the subject into the headlines. HMRC has estimated that 50,000 people face a charge averaging £64,000.

With hindsight, avoiding all tax and NICs on earnings now looks a deal too good to be true. That it seemed credible 15–20 years ago shows how attitudes to tax avoidance have changed since the turn of the century. It is also a reminder that if you are offered an avoidance scheme that appears to make your tax liability evaporate, it could be many years before you – or possibly even your executors – discover it does not.

The value of tax reliefs depends on your individual circumstances. Tax laws can change. The Financial Conduct Authority does not regulate tax advice.