



Loan charge

“LOAN CHARGE TAX BILL HAS DESTROYED MY LIFE”

Tens of thousands of workers have been hit with unexpected tax bills. We hear from those who have been affected by the Government’s controversial loan charge policy, which has been linked to suicides and bankruptcy

BY STEPHEN LITTLE

Gayle’s father committed suicide in November 2018, just months after receiving an unexpected tax bill from HM Revenue & Customs (HMRC).

She says her father, a consultant engineer in his sixties, felt unable to cope with the pressure of paying the loan charge.

Gayle, who asked *Moneywise* not to publish her full name or her father’s name, says that he had never had a history of mental health problems, but after receiving a letter from HMRC his personality changed.

She says: “During 2018, it was on his mind a lot and he became despondent and reclusive, but it was nothing that made us think we needed to do something. To

me and my sister, it was just a complicated tax thing.”

A mother-of-four, Gayle says that her father felt ashamed about breaking the law.

“He took his own life because he was convinced he was a criminal and could go to prison. He was only getting two to three hours’ sleep a night, and I just don’t think he could see an end,” she says.

The loan charge, which was announced in the 2016 Budget, is a Government measure to recover tax and national insurance from workers who used certain widely promoted tax avoidance schemes to pay their wages.

These schemes paid individuals in the form of a loan that was not subject to income tax and was often interest-free. Both



self-employed and employed contractors were free to spend the money as if it was their salary.

Usually these loans were provided by a third party funded by the employer through an employee benefit trust and structured so they did not need to be paid back.

The loan charge came into effect in April 2019 amid a storm of controversy, with many of those facing the charge arguing it was unfair. It sought to reclaim taxes that HMRC considered ought to have been paid, sometimes decades ago.

People who took out the loans include doctors and nurses.

So far, seven suicides have been linked to the charge. People who received loan charge notices also report suffering stress and anxiety.

Gayle says she is telling her story as she wants the world to know about the terrible impact it has had on people's lives.

She says: "Since Dad, there have been more suicides so I can't just

"My father was a broken man because of the charge"

sit here and do nothing. I don't want other families to go through this – it is heart-breaking.

"My father was a broken man because of the charge, so something needs to be done to stop this happening again."

Retrospective tax

Last year, HMRC said that anyone who had taken out this type of loan since 1999 would have to pay it back within the tax year as taxable income.

It said that, as the loans were not designed to be repaid, they should never have been called loans and should have been classed as income.

HMRC has come in for severe criticism over how it has gone about recovering the money.

Many people were advised to take out loans after receiving expert advice and believed that they were legal.

Some employees who used them were told to take them out as a way of securing a job.

One of the biggest criticisms of the loan charge is that it is applied retrospectively – a claim disputed by the Treasury.

The Government estimates that about 50,000 people have used a loan scheme in the past 20 years.

HMRC says it has never approved these schemes and has always said they don't work.

Steve Packham, spokesperson for the Loan Charge Action Group, says: "People took these schemes out in good faith, and you don't expect to receive a tax bill for the past years down the line.

"They were freely available and if there was any risk, then it was never explained by the Revenue at the time."

Keith Gordon, tax barrister at Temple Tax Chambers, says: "HMRC concocted the loan charge to deflect the liability on to the workers in order to cover up their historical failings.

"Its failure to voice its concern gave the promoters of these schemes

“I’VE BEEN MADE TO FEEL LIKE A CRIMINAL”

Beverly Jackson, a social worker from Manchester, is worried she will have to pay thousands of pounds in unpaid tax after signing up with an employment agency.

As the 50-year-old was self-employed, she set up a limited company for the agency to pay money into.

However, in 2016 because of changes to off-payroll working rules – known as IR35 – she was told to switch to an umbrella company. These act as an intermediary between contractors and their clients or a recruitment agency, organising payments for them.

She says the agency convinced her with a polished sales pitch that everything was legal and above board.

Beverly says: “Not being an expert in this, I went with them as they said they could get me a better return than previously.

“They said it was absolutely fine, that they had worked with this provider for a long time and there had never been any repercussions.”

In 2018, Beverly received a letter from HMRC, saying she was being investigated. She has not been told how much she owes yet, but she fears it could run into thousands.

She says: “The first thing I knew anything about it was when I got a letter from HMRC. Since then, it’s been a nightmare because I haven’t got any savings and I have three children to support.”

She says she feels as if she is living under a cloud.

“I trusted the agency to arrange everything for me and I didn’t knowingly do anything wrong. I’ve worked all my life and I have been made to feel like a criminal.”

and taxpayers the impression that it considered those arrangements to be compliant with tax law.

“HMRC should have been going for the employer and not the individuals themselves because tax law requires the Revenue to collect from the employer, even if the employee received their pay free of tax.”

Independent review’s recommendations

A damning review of the loan charge was published in December last year.

Conducted by Sir Amyas Morse, the former chief executive of the National Audit Office, the independent review said that, while it is right that avoidance schemes are tackled, in doing so the Government and HMRC must act “proportionately and responsibly”.

It criticised the loan charge for backdating payment 20 years, thus causing serious distress to the individuals affected.

“Nobody will get out of paying the loan charge easily”

The Government has accepted the review’s recommendations, and the loan charge will no longer apply to users of the scheme who took out a loan before 9 December 2010.

Those who took loan schemes between 9 December 2010 and 5 April 2016, and fully disclosed details of the loan scheme at the time – specifically the person to whom it was paid and the loan arrangement – will also be exempt from any action.

Experts believe that this is unlikely to make a big difference because most people affected would not have made the necessary disclosures to be eligible for the exemption, as they were not required to do so by law at the time.

“Very few people who had loans between December 2010 and April 2016 will be exempt from the loan charge because HMRC will not accept anything other than full disclosure,” says tax adviser Chris O’Hara of Harts Accountants in Macclesfield.

“I don’t think anybody will get out of paying the loan charge easily,” he adds.

The Government estimates the changes will reduce bills for more than 30,000 people – more than 60% of the total number of users. A further 11,000 will be taken out of it altogether.

Those affected will be able to defer filing their return until September 2020 and can also spread their outstanding tax balance across three tax years.

Those earning less than £50,000 will also be able to spread their payments over five years, while those who have an income of less than £30,000 can pay over seven years.

While the news will bring relief to some, critics argue that the loan charge remains retrospective as those who took out schemes after 2010 will still have to pay.

A spokesperson from HMRC says: “The loan charge is not retrospective. It doesn’t change the tax position of any previous year, or the outcome of any open compliance checks.

“We have been consistent that HMRC will not force anyone to sell their main home to pay their loan charge or disguised remuneration debts. Insolvency is only ever considered as a last resort.

“Ultimately, an individual is responsible for their own tax affairs. You don’t have to be a tax expert to work out that an arrangement where you are paid in the form of a loan, which is often routed offshore, is not standard practice – especially as the loan is never paid back and the end result involves a much lower tax bill.”

HMRC’s stance will be no comfort to those affected.

David* says that the changes will not help him and that he faces bankruptcy if he has to pay the loan charge.

“My accountant told me the remuneration scheme I signed up for was legal and approved by HMRC,” he says.

“The loan charge has destroyed my life. Hardly a minute goes by where I am not thinking about it and some days I just feel like throwing in the towel.” **mw**

*Name has been changed.