

Guidance on Directors' Loans Revised

HMRC has recently updated their 'Directors' Loan Accounts toolkit' in light of the change to UK GAAP accounting rules, as taxing debt will now largely be driven by FRS 102 requirements for financial instruments.

In their revised toolkit, HMRC notes that, when making loans to/from directors/employees where there is no explicit interest rate or if the rate is not charged at the market rate, the prescribed accounting treatment depends on which accounting framework has been adopted by an entity.

Where an entity applies either FRS 102: Financial Reporting Standard applicable in the UK and Ireland or FRS 102: Section 1A Small Entities, then such loans are required to be accounted for as if they were a loan with a market rate of interest. Where a company applies FRS 105: Financial Reporting Standard applicable to the Micro-entities Regime, there is no requirement to account for such loans as if they were a loan with a market rate of interest. Instead such loans would initially be recorded at the amount borrowed/advanced.

However, the choice of accounting treatment does not affect the amount chargeable for tax purposes, which is still determined by Section 455 of the Corporation Tax Act 2010. That is charged on the full amount initially borrowed/advanced.

Without this piece of anti-avoidance legislation, owner managers could potentially avoid a tax charge by arranging for 'their' company to lend them funds (as opposed to paying a 'taxable' bonus or dividend).

Please note that should your clients require any confidential advice regarding any insolvency matter they are welcome to contact Ian, John or Robert. An initial consultation is provided free of charge and without obligation. Also, if you or any of your colleagues require any clarification regarding insolvency law or procedure, please do not hesitate to contact us.