



HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ

Carol Monaghan MP
House of Commons
London
SW1A 0AA

22 January 2024

Dear Carol,

FINANCE BILL: CLAUSE 17

I am writing to confirm my response to a point you raised during the Finance Bill Public Bill Committee on 16 January, regarding whether Clause 17 will apply with retrospective effect.

Clause 17 legislates for the setting-off of taxes already paid by the worker and their intermediary against the Pay As You Earn (PAYE) liability of an organisation due under the off-payroll working rules (commonly referred to as IR35), where HMRC has discovered non-compliance with the rules. This does not change the general scheme of the off-payroll working rules. The changes that the clause will allow will ensure HMRC does not collect more tax than is due in cases of non-compliance.

The Government intends to use this clause to bring the new rules into effect from 6 April 2024, applying to PAYE liabilities that are assessed on or after this date. However, the PAYE liability that is now due may relate to payments that were made as far back as 6 April 2017, when reforms to the off-payroll working rules were first introduced.

As I set out to you in the Committee, this clause is not retrospective, as it will not change the rules that were in place before 6 April 2024. Where an organisation has already settled their PAYE liability before 6 April 2024, the legislation will not retrospectively apply to disturb this settled position. For

these cases, under the existing legislation, individuals and their intermediaries may be able to claim a repayment for taxes incorrectly paid, provided they meet the relevant conditions and are made within the applicable time limits.

For PAYE liabilities that are assessed on or after 6 April 2024, HMRC will have the power to reduce this liability to account for taxes already paid. Where this is applied, the worker and their intermediary will not be able to claim a repayment of the taxes that have been set off, even if this relates to tax on payments made before 6 April 2024. This is to prevent a double relief that would result in a loss of tax to the Exchequer.

For compliance cases that are currently open, HMRC has offered customers whose cases are approaching the settlement stage the opportunity to pause their enquiry until 6 April 2024 when the legislation comes into force. This is to ensure that HMRC avoids collecting more tax than is due in these cases.

I am copying this letter to the Chairs and other members of the Public Bill Committee and depositing a copy of this letter in the Library of the House.

Yours ever,

A handwritten signature in blue ink, appearing to read 'Nigel Huddleston', with a stylized flourish at the end.

Nigel Huddleston MP
FINANCIAL SECRETARY TO THE TREASURY