Sibbalds
CHARTERED ACCOUNTANTS

PayLessTax
2024 Autumn Edition

Company Hit on Director Loans

Jasmine is a director shareholder of Bycars Ltd which has an accounting year end date of 31st March 2025.

During that accounting period on 6th April 2024 she took out an interest free loan with her company amounting to £40,000. She still owed that money as at 5th April 2025.

As a result of that loan, **Jasmine has a beneficial loan charge of £900** upon which she will pay tax. **Bycars Ltd will also have to pay £124 Class 1A national insurance.**

Is that the end of the problem for the company? The answer, potentially, is no.

If Jasmine does not repay the loan back to Bycars Ltd within 9 months of the accounts year end (i.e. 31st December 2025) the business will also suffer what is often referred to as a Section 455 tax charge. The present tax rate of 33.75% would be charged on the £40,000 loan. Bycars Ltd would therefore have to pay across £13,500 by 1st January 2026.

This Section 455 charge would still be imposed even if Jasmine has paid a commercial rate of interest to her company, thereby avoiding her own beneficial loan income tax liability.

If Jasmine repays the loan after the 9 month window has gone by, Bycars Ltd will be able to claim back the S455 tax suffered but at the earliest, 9 months following the accounting year end in which the repayment was made.

So, if she repaid the loan on 31st March 2026 the company could claim back the S455 tax from 31st December 2026. If she repaid the loan on 1st April 2026 the business would have to wait until 31st December 2027 to get their money back.

Could Bycars Ltd avoid the S455 charge regarding the year ended 31st March 2025 through Jasmine paying back the £40,000 say on 30th December 2025 and then retaking the loan out again on 10th January 2026?

The answer is no as there is anti-avoidance legislation which states that if a new loan is taken out within 30 days either side of the old loan being 'repaid', that repayment is deemed to be set off against the new loan first and only the excess (if any) can be allocated against the original loan.

Jasmine pays £40,000 back to Bycars Ltd on 30th December 2025 but takes out a new loan for £22,000 on 10th January 2026. £22K of the repayment is allocated to the new loan leaving £18K to be set against the original £40,000 loan.

The revised S455 charge for the year ended 31st March 2025 would be:

(£40,000 - £18,000) at 33.75% = £7,425

Even if Jasmine decided to delay taking out the new loan until after 30 days have passed, the business could still be hit with the S455 charge if HMRC can demonstrate that at the time she made the £40,000 repayment Jasmine had always intended to take out a further loan.

TIP... If you are concerned about the implications behind director loans both for the company or the individual please do not hesitate to contact us..

Foster Carers Tax Rewards

Being a foster carer (FC) is a tough but rewarding job. Some people would call it a vocation. **There is a shortage of FCs around. This could, in part, be down to the challenges which come with the role, one of which might be the economics of taking these children into your home**.

Maybe understanding the tax position will alleviate some of those fears.

Once suitability checks have been completed, whether it be via the local authority or an independent fostering agency, **part of the support provided is financial** to cover the needs of the child, such as food, clothing, household costs etc. **This comes in the form of allowances which will vary depending upon the age of the child, where in the UK you are based and any special needs requirements.**

The FC is normally treated as self-employed and the allowances as income for tax purposes. Different options can be chosen to calculate whether that income is taxable or not.

FCs are eligible to claim qualifying care relief (QCR) which can be made of up to 3 components per household. Firstly a fixed amount of £19,360 (2024/25 tax year). The second element is dependent upon the age of the child and how long you look after them. For a child under the age of 11 the weekly relief is £405 and for anybody over that age it is £485. If the youngster is deemed to be special needs there is a third variable component added to the QCR to take that cost into account. It is worthwhile noting that the QCR is now raised in line with the consumer price index each tax year which was not the case pre April 2023.

If the total FCs income is below the QCR no tax is due. However, if the self-employed income exceeds the QCR limit then, after taking account of personal allowances the excess may be liable to tax and Class 4 national insurance. Either that or one can opt to disclaim the QCR and claim actual expenses incurred as a FC against the income received.

For example
Mary is a foster carer. Her total FC allowances received during 2024/25 is £62,140. During the course of that tax year, she cares for a 14 year for the whole of the tax year, a 7 year old for 15 weeks and another 12 year old for half a week. Her qualifying care relief would be as follows:

- Fixed tax exemption = £19,360 plus
- 14 year old (52 weeks x £485) = £25,220 plus
- 7 year old (15 weeks x £405) = £6,075 plus
- 12 year old (1 week x £485) = £485
- Total available QCR = £51,140

Mary opts to claim the QCR, leaving £11,000 income chargeable to tax. However this will be covered by her tax free personal allowances resulting in no tax to pay.

TIP... If, as an FC, you feel you may have paid too much tax in the past and would like a review or you need help in completing your latest self-assessment return and accounts please do not hesitate to contact us.

Salaried Member of an LLP?

Are you a member of a Limited Liability partnership?

Are you aware that HMRC have the legislative powers to review your LLP status to see if you fall within the salaried members rules (SMR)?

If caught by these rules you will not be treated as self-employed and your income will be liable to tax and national insurance (NI) as though you are an employee of the business. Depending upon your particular circumstances you could have periods where you are deemed to be self-employed and others where you have employee status.

There are 3 conditions you have to fulfill to fall within the SMR.

Condition A is met if 80% of your members income is deemed to be disguised salary. This can be a fixed level or variable amount of income you may receive which is not linked to the overall profits of the LLP.

For Example:

- John is a member of Vale LLP which operates a car washing service.
- His income will be based on the number of cars that he cleans.
- The more cars John washes the more he earns and vice versa.
- Despite the fact that his income will vary, John will fall foul of Condition A as it is linked to his own performance and not that of the overall LLP profits.

To avoid Condition B you need to demonstrate that you have significant influence over the affairs of the firm. Until recently HMRC held the view that this influence had to be across the whole of the business and purely from a management perspective. However a recent tax case has stated that it can be across part of the business and also fall within the financial and operational spheres.

As regards Condition C, your capital investment into the LLP, at the beginning of each tax year, must be at least 25% or more of your likely disguised salary for that year. So the LLP has to calculate in advance what the likely disguised salary might be and the figure you come up with must be a realistic one. HMRC have the right to override your projection if they can demonstrate it was unrealistic.

During your lifetime as an LLP member certain events happening may require you to reassess whether from that date you will be caught by the SMR or, indeed, whether you revert back to your self-employed status. Those occurrences may be:

- When you commence or cease to be an LLP member.
- The beginning of each tax year.
- An alteration to your LLP agreement on how income is to be calculated.
- An increase or reduction in your capital contribution to the LLP.
- A change in your role within the business.
- A revision of the projected disguised salary figure during the course of the tax year.

TIP... If you are concerned you could be caught by these 3 conditions please do not hesitate to contact us and we can carry out a review.

Help for Small Businesses

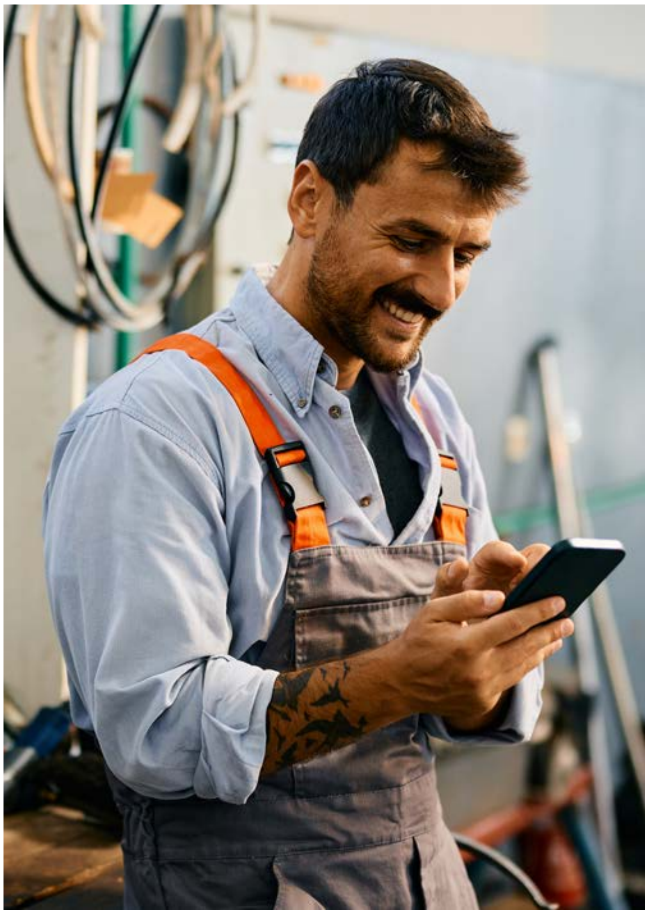
There have been a number of government backed schemes over the years to try to help small businesses flourish, whether that be the Bounce Back Loan Scheme (BBLS), during the infamous Covid period, or the Recovery Loan Scheme (RLS) which popped up during its aftermath.

Since July 2024 the Growth Guarantee Scheme (GGS) has been launched and is open to applications until 31st March 2026.

If you are a small business who requires finance for legitimate business purposes, such as, for example, managing cash flow, purchasing equipment or running marketing campaigns, you can apply to borrow up to £2 million. This is restricted to £1 million if your business falls within the Northern Ireland Protocol (as amended by the Windsor Framework).

- **Small businesses include sole traders, companies, partnerships, Limited Liability Partnerships, Co-operative and community benefit societies**.
- You are deemed to be a small business if your turnover is no more than £45 million.
- The government guarantees the lender to cover 70% of any GGS loan.
- **A business must be carrying on trading activity in the UK** and, with the exception of charities and Further Education colleges, more than 50% of their income must derive from that trade.
- You are not prevented from taking out a GGS loan if you have already obtained a BBLS or RLS loan but the amount available may be restricted because of it.
- The business must not be in financial difficulty.
- **There are approaching 50 accredited lenders who have been approved by British Business Bank (BBB)**, who have been made responsible for rolling out the GGS. Those lenders can be found on the BBB website.
- Term loans and asset finance facilities are available from 3 months up to 6 years, with overdrafts, invoice finance and asset backed lending an option from 3 months to 3 years.

TIP... Do you require support to help your business grow? If so please do not hesitate to contact us and we can look at the options, financial and/or otherwise to help you achieve those goals.



We are here to help

We can help you by ensuring that you're aware of the changes that will affect you, your family and your business. To find out more about the ways that we can help you, do not hesitate to contact us.

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