



Settlement considerations following the *Rangers* decision

September 2017

Following the Supreme Court's recent judgment in the *Rangers*¹ case, many employers who had established employee benefit trusts (EBTs) are facing enforcement notices in respect of income tax and National Insurance contributions (NICs). In addition, HMRC is inviting participants of what it considers to be disguised remuneration schemes (including EBTs, employer-funded retirement benefit schemes (EFRBS), contractor loan schemes and self-employed benefit schemes), to register an interest in settling their tax liabilities arising from the use of such arrangements.

As a consequence of the *Rangers* case, HMRC expects there to be a surge in taxpayers who participated in such arrangements seeking to settle their outstanding disputes with HMRC on the basis that the arrangements are ineffective. In HMRC's view, such arrangements simply diverted employment earnings to a third party in an attempt to avoid income tax and NICs.

However, the position may not be as straightforward as HMRC is indicating. The rules governing allocation of liability ie who pays the tax and NICs are complicated and each arrangement will be fact specific. This was confirmed in a recent EBT case in which we were instructed involving arrangements similar to those under consideration in *Rangers*. In that case, the Tribunal judge rejected HMRC's redirection of income argument².

Anyone who is faced with attempts to recover income tax or NICs following the *Rangers* decision, or who simply wishes to consider their options, should obtain legal advice from appropriately qualified lawyers before taking any action.

If you would like to discuss your position following the *Rangers* case, please contact any of the following:

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1. [2017] UKSC 45.

2. [2017] UKFTT 589.

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