



**HM Revenue
& Customs**

**HM Revenue & Customs
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Date 17 May 2012
Our Ref PSTR 00157669RZ (CFS-499593)
Your Ref -

Dear Mr Misertotti

The Tierney Family Trust

Thank you for your letter of 13 April 2012 which was emailed to me on the same day together with eight attachments.

Having reviewed the various documents you sent me below I have made some comments below and set out further information/clarification I require.

Loans

1. Two loans were made one for a £100k and the other for £8k. The £100k and £8k loan documents and charge/security documents are all dated 2 April 2009. According to the bank statements you provided it appears that the £100K was advanced on 19 January 2009 and the £8k on 12 March 2009. As the loan advances pre date the loan agreements and the execution of the security documentation so it does appear that both loans are not compliant with s.179 FA04 and as such both loans are unauthorised employer payments subject to tax under section 208 (on the employer) & s.239 (on the administrator) FA04. I should be please to receive your comments on this point.

I should add that even if the loan advances hadn't pre dated the loan agreement I would have queried the loans' security as I am not convinced that it is of *adequate value*. If necessary I will obtain advice for my colleagues in Shares & Assets Valuation (SAV) regarding the market value of the shares as at the date of the loan advances.

Information is available in large print, audio tape and Braille formats.
Type Talk service prefix number – 18001

I have one other query relating to the £100k advance. According to the bank statement the £100k was paid to Tozers LLP, please explain why the money was paid to this company and what they did with it?

I note that you have advised me that the employer has made arrangements to repay the loans and late payment interest in full. I should advise you that this has no bearing on the tax position if the were not *authorised employer loans* (compliant with s.179 FA04).

2. There are a number of other bank transactions on the scheme bank statements where I require a further explanation. Therefore, please provide a full explanation of what the following transactions relate to – full details please.

		Debit
8 April 2010	Boutique Leisure	5,000.00
21 June 2010	To Tierney Joint account	20,000.00
18 August 2010	To S & J Tierney	15,000.00
2 Sept 2010	L Paterson	10,000.00
27 Sept 2010	To JE & JC Tierney	10,000.00
28 Oct 2010	To J & E Tierney	4,400.00
30 March 2011	Quest Overseas	20,000.00
7 April 2011	To JE & SC Tierney	128,794.43
7 April 2011	HMRC	14,997.97
1 August 2011	Barons	54,480.00
1 August 2011	To JE & SC Tierney	45,000.00

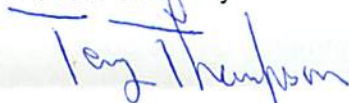
If any of the above payments relate to tax free lump sum or pension payments please provide full details of the member(s) entitlement together with the calculations and the PAYE reference.

3. Please also provide the names of the scheme members and their UTRs and/or the National Insurance Numbers.

Please provide this information no later than 20 June 2012.

When you contact us about this check, you need to quote the case reference CFS-499593 and any other references shown above. If you write you need to use the address shown above and if you send documents you must tell us if you want them returned.

Yours sincerely



Terry Thompson
Pension Compliance

Direct line 0115 974 2327