

Business tax round up

(Lecture B1201 – 23.12 minutes)

Extended CJRS

As promised, on 12 June, the Government published details of the furlough scheme extension that will run from 1 July to 31 October 2020.

To be eligible for this new scheme, employees must already have been furloughed for a full three weeks at some point before 30 June 2020; so any three week furlough period claimed for under the original scheme counts. The only exception to this is where employees are returning from family-related leave, like maternity leave.

Part time working

From 1 July, part-time working is allowed, and the three week furlough rule disappears so employers can bring back furloughed employees for any amount of time, but:

- employers must agree with their employee any new flexible furloughing arrangement and confirm that agreement in writing;
- the employer will be responsible for paying for the work done, including employers NIC and pension contributions;
- the grant will continue to be available for the hours not worked;
- from 1 August 2020, employers will start to take responsibility for some of the furloughed costs.

Employers can claim the grant for the furloughed hours when their employees are not working calculated by reference to their usual hours worked in a claim period. In summary, the grant will work as follows:

- July: Government pays 80% of wages up to a cap of £2,500 as well as employer National Insurance Contributions (ER NICs) and pension contributions for the hours the employee does not work.
- August: Government pays 80% of wages up to a cap of £2,500 for the hours the employee does not work but now employers pay the related ER NICs and pension contributions.
- September: Government pays 70% of wages up to a cap of £2,187.50 for the hours the employee does not work with the employer paying 10% up to £312.50. Employers pay the related ER NICs and pension contributions on the full 80%.
- October: Government pays 60% of wages up to a cap of £1,875 for the hours the employee does not work with the employer paying 20% up to £625. Employers pay the related ER NICs and pension contributions on the full 80%.

Dealing with the transition

From 1 July 2020, when the new scheme starts, claims must be split around 30 June 2020. Grant claims for periods up to 30 June 2020 must be submitted by 31 July 2020. It makes sense to submit all claims under the old scheme before considering claims under the new scheme.

Under the new scheme, claims cannot straddle a calendar month as each month rules change. It may be necessary for employers to split claims around the month end. Normally, claim periods cannot be shorter than a week but this is permitted where an employer is splitting period around a month end.

Claims cannot be made more than 14 days before the end of the date of the claim so 18 July 2020 for pay period to 31 July.

Reporting

From 1 July 2020, employers will need to report the usual hours and the hours worked, with the hours worked appearing on payslips. It would seem sensible to also show an employees furloughed hours.

HMRC guidance includes a number of worked examples for salaried, varied hours and zero hour employees.

Decisions to be made

Clearly, employers will need to consider which employees they will need going forward as after July, furloughing will start to cost the employer money. Inevitably, some employers will need to start thinking about redundancies that will open up a whole new can of worms.

<https://www.gov.uk/guidance/claim-for-wages-through-the-coronavirus-job-retention-scheme>

<https://www.gov.uk/government/publications/find-examples-to-help-you-work-out-80-of-your-employees-wages/examples-of-how-to-work-out-80-of-your-employees-wages-national-insurance-contributions-and-pension-contributions#fixed-hours>

Amending claims under the CJRS

Employers and their agents have not always calculated the correct employee costs to claim under the Coronavirus Job Retention Scheme.

Too much claimed

The claim process has now been amended to enable over-claims to be corrected in a later claim period. When applying through the Coronavirus Job Retention Scheme application process, employers are now asked if they need to reduce the amount claimed in the current period to take account of a previous error. Where this is the case, HMRC will reduce the next claim to reflect this and employers should then keep a record of this adjustment for six years.

If the employer does not plan to submit any further CJRS claims, they to find out how to pay back any overclaimed amounts. HMRC will give them a payment reference number and directed to make a payment to HMRC Cumbernauld

Not enough claimed

Where an employer or their agent has under-claimed in a period, perhaps by omitting employer NICs costs or employer pension contributions, they must contact HMRC directly via the coronavirus technical line on 080 0024 1222. HMRC will be able to put through a claim for the additional grant due and provide a reference number to support this extra claim..

Where the employer has claimed the Employment Allowance (now £4,000 per year), any employer's NIC covered by that allowance should be excluded from the CJRS claim.

<https://www.gov.uk/guidance/claim-for-wages-through-the-coronavirus-job-retention-scheme>

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/888764/Factsheet_for_SEISS_and_CJRS_schemes.pdf

Recovery powers for COVID-19 schemes

HMRC is not expected to penalise employers for genuine errors. However, new draft clauses to be included in the Finance Bill plan to give HMRC powers to recover payments to which recipients were not entitled to under both the Coronavirus Job Retention Scheme (CJRS) and the Self-Employment Income Support Scheme (SEISS).

The draft clauses give HMRC powers to raise a tax assessment equal to the amount to which traders and employers or were not entitled (or they have not used to pay furloughed employee costs).

Under the new rules HMRC will be able to make a company officer jointly and severally liable for any tax charge raised in relation to any CJRS payment.

Further, HMRC will be able to charge a penalty for any deliberate non-compliance.

In making grant payments, HMRC has relied on both employers and the self-employed to follow the rules correctly. At this stage, it is not clear how much time and money HMRC will be given to making compliance checks to ensure:

- Employers calculated their CJRS grant correctly;
- Furloughed employees were not working up to the end of June;
- The self-employed satisfied the self- declared eligibility criteria.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/888811/Taxation_of_coronavirus_support_payments_-_draft_explanatory_note.pdf

Employment allowance and the CJRS

Last month we mentioned the possibility of deferring when the Employment Allowance is claimed. The idea was supported by the ICAEW's Tax Faculty who stated that claiming the employment allowance later in the tax year, once the Coronavirus Job Retention Scheme had ended, appeared to be permitted by the legislation which does not require an immediate claim to employment allowance and allows claims to be backdated four years. The Tax Faculty did say that they had asked HMRC to confirm that this was an acceptable practice.

Lecturers on this service had received verbal confirmation from HMRC that deferring the allowance claim to a post furlough period was permitted. And when claimed the whole £4,000 was available.

After various HMRC updates on 12 June, it now seems that HMRC will not allow this practice. HMRC now say that employers can claim the Employment Allowance when they like but they need to either:

- not claim the employer NICs grant;
- reduce the grant claimed to take account of the Employment Allowance;
- contact HMRC via the employer helpline to restrict the value of their Employment Allowance claim.

The guidance states that attempting to get relief for the same NIC costs twice is a fraud and may result in claims being investigated.

<https://www.gov.uk/guidance/calculate-how-much-you-can-claim-using-the-coronavirus-job-retention-scheme#employallow>

SEISS extension

This first payment under this scheme allowed eligible self employed traders and partners in a partnership to claim a taxable grant worth 80% of their average monthly trading profits, paid out in a single instalment. We were initially told that the payment covered 3 months' worth of profits, and it was capped at £7,500. Anyone who is eligible and wants to make a claim under the scheme must do so on or before 13 July 2020.

As we know, this scheme has now been extended allowing eligible self employed and partners in a partnership to apply for a second grant. Provided that their businesses have been adversely affected by COVID-19, they can claim for the second grant even if they did not make a claim for the first grant. In their guidance, HMRC has included some examples of when this might apply. Unfortunately, the second grant has the same eligibility criteria as the first, so if an individual was ineligible for the initial grant, they are also ineligible for second.

Under the second grant, eligible individuals will be able to apply in August for a grant calculated as 70% of the average monthly trading profits, paid in a single instalment covering a further 3mths' worth of profits, capped at £6,570 in total.

Although the eligibility criteria for the second grant are the same as the first, there seems to be some confusion over the period that is covered by the two grants. With the initial announcement of the scheme on 26th March 2020, together with the Coronavirus Job Retention Scheme operating in March, many assumed that the first grant covered the three months, March, April and May. Indeed, it seems that HMRC were confused over the period covered as it has been reported that an HMRC webinar run on 18th June told potential claimants that the second grant applied to June, July and August. However, guidance clearly states that claims for the first grant can be made up until 13 July, and that the second grant applies for businesses that have been adversely affected on or after 14 July 2020. So it seems that the first grant is available to businesses adversely affected up to 13 July 2020, and the second grant is available to businesses affected after that date. All other eligibility criteria remain the same.

<https://www.gov.uk/guidance/claim-a-grant-through-the-coronavirus-covid-19-self-employment-income-support-scheme>

<https://www.gov.uk/guidance/how-different-circumstances-affect-the-self-employment-income-support-scheme#adversely-affected-examples>

Option to tax extended again

HMRC has further updated its guidance to cover the temporarily extended 90-day time limit to notify a decision to opt to tax. This now applies to decisions made between 15 February and 31 October 2020.

<https://www.gov.uk/guidance/changes-to-notifying-an-option-to-tax-land-and-buildings-during-coronavirus-covid-19>

R&C Brief 7 (2020)

R&C Brief 7: Domestic reverse charge for construction services brief has announced that, due to the impact of COVID-19 on the construction industry, the introduction of the domestic reverse charge for construction services will be delayed from 1 October 2020 until 1 March 2021. From this date, a reverse charge will be needed on:

- supply of specified CIS building and construction services;
- goods supplied with those services.

It will apply to all types of contractor (gross, 20% or 30% contractors) where services are reported through the CIS system.

It will only apply to supplies between VAT registered sub-contractors and VAT registered contractors with one important exception.

However, the reverse charge will not apply when invoicing an end user so anyone who is not making an onward supply of construction services. This will include property developers who are looking to sell the property rather than making an onward supply of construction services. This end user status must be confirmed in writing.

Example

A VAT registered subcontractor invoices a VAT registered main contractor £10,000 on 31 March 2021 and that can include materials,

The sub-contractor must raise an invoice for £10,000 with no VAT charged, include narrative on the invoice "Reverse charge: Customer to pay the VAT to HMRC" and also make a Box 6 entry of £10,000 on VAT return

The main contractor must include the following entries on their VAT return:

- Box 1 Include £2,000 domestic reverse charge;
- Box 4 Reclaim the input VAT of £2,000 if fully taxable but not if partially exempt;
- Box 7 Include the £10,000 net value.

If the job was a lower rated job, then VAT in Box 1 and 4 would be £500 calculated at 5%

Other points to consider

It is the contractor who needs to determine the correct rate of VAT, not the sub-contractor who will be raising the invoice.

Current MTD accounting software should have the facility to be able to deal with the CIS reverse charge at either 5% or 20% so that the correct VAT treatment will be automatically applied on the taxpayer's invoice and VAT return. Clearly clients, or their agents, must ensure that these tax rates have been set up on their accounting system before any CIS reverse charge invoices are raised by the sub-contractor and input by the contractor.

Reverse charge supplies are excluded from The Flat Rate Scheme so it is best to come out of the scheme and revert to normal VAT accounting so clients can recover input tax.

The main problem for sub-contractors under this new reverse charge system is a possible cash flow issue. The VAT being charged under the old system is often treated as short term funding by sub-contractors but from 1 March 2021, this money will no longer be invoiced and collected by them, so they should plan for this shortfall, especially in light of the 31 March 2021 deferral payments that may well be due as a result of Covid-19. Agents must warn their clients if this is likely to be an problem for their clients. However, CIS exclusive suppliers will become repayment traders from 1 March 2021 and so could consider applying to submit monthly returns.

<https://www.gov.uk/government/publications/revenue-and-customs-brief-7-2020-domestic-reverse-charge-vat-for-construction-services-delay-in-implementation>