
COVID-19 – What about the self-employed? You have not been forgotten

This note is current as at 6pm on 26 March 2020

Before today, the Government had announced minimal support for the estimated 5 million self-employed/freelancers in the UK whose work has been, or will be, affected by the COVID-19 pandemic.

However, that has now changed with a package of support which the Chancellor claims is “*one of the most generous schemes in the world*”. Whilst not included in the Coronavirus Act 2020 itself, new measures are to be introduced which aim to support the self-employed/freelancers including:

- a new **Self-Employed Income Support Scheme** (“SEISS”) for those who have experienced business interruption, “*equal to*” the rights of furloughed employees; and
- access to the Business Interruption Loans Scheme to cover immediate payment needs.

These are in addition to the measures previously announced which include:

- a suspension of the minimum income floor so the self-employed can access Universal Credit in full at a rate equivalent to Statutory Sick Pay; and
- a deferral of the next income tax self-assessment payment from 31 July 2020 until 31 January 2021, with no penalties or interest for late payment being charged in the deferral period

Who is eligible?

Whilst the Government has indicated that SEISS is open to everyone, with 95% of the ‘majority’ self-employed benefitting, it has been recognised that the self-employed are a diverse population and the Government has imposed eligibility criteria to make SEISS “*deliverable and fair*”.

Individuals are required to have:

- trading profits of less than £50,000 per annum;
- the “majority” of their income from self-employed work; and
- a 2019 tax return (albeit if it has not yet been filed individuals have four weeks to do so).

It therefore appears that all those who are on the payroll and taxed through Pay-As-You-Earn (PAYE) rather than in business on their own account will not be covered by SEISS. There has already been a variety of support packages offered to businesses aimed at retaining employees, rather than making them redundant.

The Government approach appears to align with HMRC’s position on employment status that an individual is either deemed an “employee” or “self-employed”, rather than the additional hybrid category of “worker” used for employment status, which affects many individuals not only in the gig economy, but in a variety of other sectors.

Where individuals are casuals or engaged on zero hours contracts, how they are paid (on or off payroll) and whether they have the “majority” of their income from self-employed work will determine whether they can access SEISS.

Those who pay themselves a salary and dividends through their own company are not covered by SEISS but will be covered for their salary by the Coronavirus Job retention Scheme if they are operating PAYE schemes.

What is paid?

The Government will pay to self-employed individuals under SEISS a taxable grant of up to 80% of the individual's average monthly profits up to £2,500 per month, based on average profits over the last three years. If the individual has less than three years' accounts, an average figure will be used, but not if the individual has less than a year's accounts.

What is the timeframe?

SEISS will be available for up to three months, but may be extended for a longer period, if necessary. The scheme should be up and running from the beginning of June 2020. This delay will afford time for those self-employed individuals who missed the January tax return filing deadline to file a return within the next four weeks.

However, the significant rise in applications for Universal Credit indicates that there are many self-employed individuals who need to access funds quickly and the Government acknowledged the delays in payment under that scheme. Access to the Business Interruption Loans Scheme will be made available to cover immediate payment needs.

Who is responsible for applying for a grant in relation to the self-employed?

HMRC will contact the self-employed individuals directly. The individual will be required to fill out an online form and then subsequently, payment will be made backdated to March 2020. Whilst it appears to be an automatic entitlement, grants will be taxable and should be declared on the individual's tax return.

Despite the positive announcement, the Chancellor hinted at a potential sting in the tail for the self-employed with an indication of some recovery through changes to National Insurance Contributions for the self-employed in the future. We will keep you updated on further developments. If you have any questions, please do contact the CMS Employment Team.

For more information about wider issues, we have a dedicated section on our website:
<https://cms.law/en/int/insight/coronavirus-sars-cov-2-covid-19>

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