



IMPORTANT INFORMATION

Late yesterday, detailed guidance was released on how the Coronavirus Job Retention Scheme will work and about the new Coronavirus Self-employed Income Support Scheme.

Please read this update carefully as it contains the answers to 90% of the questions we have been asked in the past week.

As with most situations, there are those who are covered by these schemes and we think there is also a significant minority that miss out and will be reliant on Universal Credits and welfare.

The following notes have been taken mostly from the guidance released by HMRC and the government. We apologise how detailed this is.

Coronavirus Job Retention Scheme

This is the scheme that has brought the word 'furloughed' into everyday use.

Where it applies the scheme provides the employer with a grant to cover 80% or £2,500 of employment costs of employees who have been furloughed. Employers can also claim for the associated Employer National Insurance contributions and minimum automatic enrolment employer pension contributions on that wage.

Who can claim?

Businesses and charities. They do not have to be a limited company so can be a partnership or sole trader BUT they must have created and started a PAYE payroll scheme on or before 28 February 2020 and have a UK bank account.

Which employees are eligible?

The employee must have been on your PAYE payroll on 28 February 2020, and can be:

- full-time
- part-time
- on flexible or zero-hour contracts
- the scheme also covers employees who were made redundant after 28 February 2020, as long as they are rehired by their employer.
- Employees hired after 28 February 2020 cannot be furloughed or claimed for in accordance with this scheme.
- Employees on unpaid leave cannot be furloughed, unless they were placed on unpaid leave after 28 February.
- Employees on sick leave or self-isolating should get Statutory Sick Pay, but can be furloughed after this.
- Employees who are shielding in line with public health guidance can be placed on furlough.
- Employees who have more than one job can be furloughed for each job separately. Being furloughed for one employment does not mean they will need to be furloughed for all.

An employee must be furloughed for a minimum of three weeks to be eligible for a claim.

When on furlough, an employee cannot undertake work for or on behalf of the organisation. This includes providing any services or generating revenue. A furloughed employee can take part in volunteer work or training, as long as it does not provide services to or generate revenue for, or on behalf of your organisation.

If an employee is working, but on reduced hours, or for reduced pay, they will not be

eligible for this scheme.

While on furlough, the employee's pay will be subject to usual income tax and other deductions.

Interaction with Maternity Leave, contractual adoption pay, paternity pay or shared parental pay:

If your employee is eligible for Statutory Maternity Pay (SMP) or Maternity Allowance, the normal rules apply, and they are entitled to claim up to 39 weeks of statutory pay or allowance.

Employees who qualify for SMP, will still be eligible for 90% of their average weekly earnings in the first 6 weeks, followed by 33 weeks of pay paid at 90% of their average weekly earnings or the statutory flat rate (whichever is lower). The statutory flat rate is currently £148.68 a week, rising to £151.20 a week from April 2020. This is not part of the Coronavirus Job Retention Scheme.

However if you offer enhanced (earnings related) contractual pay to women on Maternity Leave, this is included as wage costs that you can claim through the scheme.

The same principles apply where your employee qualifies for contractual adoption, paternity or shared parental pay.

How to furlough an employee:

The process of furloughing an employee is subject to normal employment law and regulations.

The employer needs agreement from the employee to furlough them, unless it's covered by a clause in the employment contract. They also need to select employees in a fair way to avoid any discrimination.

If an employee disagrees with their employer's decision, they'll need to talk to their employer and try to come to an agreement.

Any furlough agreements should be in writing. It's a good idea to include:

- the date furlough starts
- when it will be reviewed
- how to keep in contact during furlough

A worker will stay employed while they're furloughed, but they must not work.

How to calculate the claim:

The employer will receive a grant from HMRC to cover the lower of 80% of an employee's regular salary or £2,500 per month, plus the associated Employer National Insurance contributions and minimum automatic enrolment employer pension contributions on that subsidised salary.

Fees, commission and bonuses should not be included.

At a minimum, employers must pay their furloughed employees the lower of 80% of their regular salary or £2,500 per month. An employer can also choose to top up an employee's salary beyond this but is not obliged to under this scheme.

1. With full time and part time salaried employees, the employee's actual salary before tax, as of 28 February should be used to calculate the 80% (fees, commission and bonuses should not be included).
2. For employees whose pay varies:
 - If the employee has been employed for a full twelve months prior to the claim, you can claim for the higher of either:
 - the same month's earning from the previous year
 - average monthly earnings from the 2019-20 tax year
 - If the employee has been employed for less than a year, you can claim for an average of their monthly earnings since they started work.
 - If the employee only started in February 2020, use a pro-rata for their earnings so far to claim.

3. For directors who take a relatively low salary and dividends, it is the salary figure only that can be included in this scheme, dividends are excluded. It will be the salary as at 28th February that is used to make the calculation. Often this will be 80% of £719 a month.

Employer National Insurance and Pension Contributions

Employer National Insurance contributions and minimum automatic enrolment employer pension contributions need to be paid for furloughed employees.

The employer can include in the grant claim 80% of the associated Employer National Insurance contributions and minimum automatic enrolment employer pension contributions.

Employer National Insurance Contributions and automatic enrolment contribution on any additional top-up salary will not be funded through this scheme.

Voluntary automatic enrolment contributions above the minimum mandatory employer contribution of 3% of income and above the lower limit of qualifying earnings (which is £512 per month until 5th April and will be £520 per month from 6th April 2020 onwards) will not be funded through this scheme.

Making a claim:

To claim, the employer needs:

- the PAYE reference number
- the number of employees being furloughed
- the claim period (start and end date)
- amount claimed (per the minimum length of furloughing of 3 weeks)
- the employer's bank account number and sort code
- A contact name
- A phone number

HMRC will retain the right to retrospectively audit all aspects of your claim.

An employer can only submit one claim at least every 3 weeks, which is the minimum length an employee can be furloughed for. Claims can be backdated until the 1 March if applicable.

Once HMRC have received the claim and the employer is eligible for the grant, HMRC will pay it via BACS payment to a UK bank account.

The scheme is expected to be up and running by the end of April and initially will cover March, April and May.

Finally the grant will be treated as taxable income and included in taxable profits for Corporation tax (limited company employers) or income tax (sole trader and partnership employees).

The Coronavirus Self-employed Income Support Scheme

Who can apply?

You can apply if you're a self-employed individual or a member of a partnership and:

- have submitted your Income Tax Self-Assessment tax return for the tax year 2018-19
- traded in the tax year 2019-20
- are trading when you apply, or would be except for COVID-19
- intend to continue to trade in the tax year 2020-21
- have lost trading/partnership trading profits due to COVID-19

Your self-employed trading profits must have been less than £50,000 and more than half of your income from self-employment. This is determined by at least one of the following conditions being true:

- having trading profits/partnership trading profits in 2018-19 of less than £50,000 and these profits constitute more than half of your total taxable income

- having average trading profits in 2016-17, 2017-18, and 2018-19 of less than £50,000 and these profits constitute more than half of your average taxable income in the same period

If you started trading between 6th April 2016 and 5th April 2019, HMRC will only use those years for which you filed a Self-Assessment tax return to make the calculation.

To clarify, if you started self-employment after 5th April 2019 you are not eligible for this scheme.

How the grant will be calculated:

The grant will be based on 80% of the average profits from the tax years (where applicable):

- 2016 to 2017
- 2017 to 2018
- 2018 to 2019

To work out the average HMRC will add together the total trading profit for the 3 tax years (where applicable) then divide by 3 (where applicable), and use this to calculate a monthly amount.

It will be up to a maximum of £2,500 per month for 3 months.

HMRC will pay the grant directly into your bank account, in one instalment.

How to apply:

HMRC will contact you directly if you are eligible for the scheme and invite you to apply online.

HMRC says Individuals do not need to contact HMRC now and doing so will only delay the urgent work being undertaken to introduce the scheme.

If you are late submitting your 2019 Self-Assessment tax return (due date for submission was 31st January 2020) you can still submit it by 23rd April 2020, for the figures to be included in the grant calculation.

Other points:

- You can carry on working (if work is available), it is not a requirement of the Coronavirus Self-employed Income Support Scheme that you stop all work.
- HMRC have used the expression 'average profits' and 'trading profits' in the guidance. These expressions are not used on the Self-Assessment tax return form but almost certainly refers to 'Net business profit for tax purposes'. This figure is calculated after Capital Allowances for purchases of capital equipment.
- There is a requirement that to claim the business must have lost trading/partnership trading profits due to COVID-19. We think most businesses will be able to justify this, but there will be a few that possibly can't.

Our Thoughts

As we said earlier, some people slip through the net and will have to rely on Universal Credit and other benefits, or the Coronavirus business interruption loan scheme to stay afloat. This includes people who started as a sole trader after 5th April 2019 for example and we can think of quite a few clients who fall into this category.

Directors of small companies generally lose out because dividends are excluded (dividends are investment income) from the Job Retention Scheme.

There are no provisions for owners of holiday let properties that are losing out heavily through cancellations and the shutdown.

Rishi in his speech yesterday said 'But I must be honest and point out that in devising this scheme – in response to many calls for support – it is now much harder to justify the inconsistent contributions between people of different employment statuses. If we all want to benefit equally from state support, we must all pay in equally in future.'

We suspect that everyone who is in business, be it as a sole trader, partnership or via a limited company, can expect some significant changes to the tax system in the next couple of years.

Finally:

It's since been reported that some banks are inserting these clauses, which go against the aim of the scheme. In particular HSBC and Barclays were named in the press as doing this.

Please be vigilant – if you sign a personal guarantee or indemnity you are personally liable for the loan, the limited liability of a company will not apply.

We have been told from our source at Barclays there will be no personal guarantees up to £200K

Scams

We added this to a previous update and add it again. Coronavirus is an opportunity for scammers and fraudsters, BE VIGILANT. We had a client speak to us yesterday with a supposed phone call from HMRC wanting bank details etc. It was completely fraudulent. We have also noted websites to local authorities are scammers.

Everyone is distracted and quite likely worried with everything that's going on and it's very easy to be caught unawares.

- DO NOT HAND OVER ANY BANK DETAILS TO ANYONE YOU DON'T KNOW. THIS INCLUDES ANYONE SAYING THEY ARE FROM HMRC.

BE SUSPICIOUS IF YOU RECEIVE DETAILS OF A SUPPLIER CHANGING BANK DETAILS FOR PAYMENTS.