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TAX
EMPLOYMENT

# COVID-19 Temporary Wage Subsidy Scheme

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As discussed in our COVID-19: Employer Alert, from 26 March Revenue will operate a Temporary Wage Subsidy Scheme to provide financial support to workers affected by the COVID-19 pandemic.

The scheme is expected to last for 12 weeks and will be available to employers who keep employees on payroll during the pandemic. It is thus a potentially vital subsidy for businesses experiencing short term financial difficulty as a result of the pandemic.

The scheme is provided for under the Emergency Measures in the Public Interest (Covid-19) Bill 2020.

## DETAILS OF THE SCHEME

- The scheme replaces the COVID-19 Employer Refund scheme which was applicable from 15 March 2020.
- Phase 1 is intended to be a short, transitional phase during which employers will be refunded up to a maximum of €410 for each qualifying employee from 26 March 2020.
- Phase 2 which will commence no later than 20 April 2020, will be a subsidy payment where employers will be refunded based on the employee's average net weekly pay as follows:
  - Capped at the level of 70% of previous average weekly take home pay, to a maximum of €410 per week;
  - Capped at €350 for employees where the previous average net weekly pay is greater than €586 but less than €960; and
  - No subsidy will be paid where previous average weekly net take home pay exceeds €960 per week.
- Revenue guidance indicates that where the €410 Revenue payment in Phase I exceeds the maximum subsidy amount due in respect of that employee using the Phase II metrics (e.g. because it exceeds 70% the average net weekly pay for that employee) the excess is refundable by the employer to Revenue.
- Employers should pay no more than the normal weekly net pay of the employee.
- The scheme will apply to employers who top up employees' wages and those that do not.
- Payment to employees is made through the normal payroll process, with employers then reimbursed within two working days by Revenue.
- The subsidy payments are liable to income tax on the employee, however this is not taxable in real-time through the PAYE system – rather the employee will be taxable on the subsidy amount paid to them by their employer by review at the end of the year.
- Employer's PRSI will not apply to the subsidy payment and will be reduced from 11.05% to 0.5% on the top-up payment.

Revenue have issued a "Frequently Asked Questions" publication on the scheme which can be accessed here.

## EMPLOYEE ELIGIBILITY

For employees to be eligible for the scheme they must be on the payroll as at 29 February 2020 and the employer must have made payroll submissions to Revenue in respect of them, between 1 February 2020 and 15 March 2020.

The scheme is also available where employees have been laid off as a result of COVID-19. These employees can be taken back onto the payroll and will qualify for the subsidy if they were on payroll at the end of February.

Employers must not operate this scheme for any employee who is making a claim for duplicate support (e.g. Pandemic Unemployment Payment) from the Department of Employment Affairs & Social Protection ("DEASP"). Where an employee previously laid off has been re-hired, the employee will qualify for the Subsidy scheme if their DEASP claim is ceased.

## EMPLOYER ELIGIBILITY

The scheme is available to employers across all sectors (excluding Public Service and Non-Commercial Semi-State Sector). To qualify for the scheme employers must be experiencing significant negative economic disruption due to COVID-19.

Revenue have stated that key indicators that an employer is experiencing significant negative economic disruption would be indicators such as a decrease or *likely* decrease in employer's turnover by 25% in Q2 2020. This reduction is to be determined by the employer and may be based on, for example:

- Decline in orders in March 2020 compared to February 2020;
- Likely turnover of Q2 2020 compared to Q1 2020;
- Likely turnover of Q2 2020 compared to Q2 2019; and
- Any other basis that is reasonable.

Another indicator is that the business is unable to meet normal wages or normal outputs.

## SELF-ASSESSMENT

Application for the scheme currently is based on self-assessment principles. Revenue will not be looking for proof of qualification at this stage, but may review eligibility in the future; thus employers should retain any evidence regarding their basis for applying for the scheme.

In any review of eligibility by Revenue, the critical requirement is to be able to show significant negative economic disruption due to COVID-19. Revenue have provided a number of examples of supporting evidence that would help in determining eligibility:

- If decline in turnover was less than 25%, employers should retain documentation that supports their rationale for believing that it would have suffered such a decline;
- Copies of documentation submitted to a financial institution as part of the negotiation of forbearance measures with the financial institution;
- Copies of notifications or communications to employees or Trade Unions or staff representative bodies of salary/wage cuts implemented as a direct result of the COVID-19 pandemic;
- Copies of documentation that show that any cash reserves in the business are required to fund debt that is equal or greater than the reserve amount;
- Evidence of reliance on the Government Credit Guarantee Scheme or overdraft facilities or other borrowings for capital purposes; and
- In the case of start-up businesses, for example, evidence of a decline in investment by at least 25% arising from the COVID-19 crisis.

This list of supporting evidence is not intended to be exhaustive – rather it is an illustration of the types of evidence Revenue may seek in reviewing eligibility.

Revenue guidance states that an employer with strong cash reserves (that are not required to fund debt), that has been hit by a significant decline in business will still qualify for the scheme. However, the Government would expect the employer to continue to pay a significant proportion of the employee's wages. It is unclear how this will apply in practice and whether further Revenue guidance will issue.

Ultimately, it seems, there is an understanding that there will not be a uniformity of circumstance in applications. Revenue have stated that they will adopt a reasonable, fair and pragmatic approach in considering whether the criteria have been met.

## PUBLICATION

The legislation requires the publication of the names of the employers who have applied to operate the scheme. These details will be published on the Revenue website.

For further information on this topic, please contact a member of the Arthur Cox tax or employment team.

## KEY CONTACTS

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