Written 4 May 2020

C19 BUSINESS NEWS UPDATE

SMALL BUSINESS DISCRETIONARY GRANT PAYMENTS

TOP-UP TO LOCAL BUSINESS GRANT FUNDS SCHEME

The Government has announced a discretionary fund has been set up to accommodate certain small businesses previously outside the scope of the business grant funds scheme.
The Business Secretary Alok Sharma and Minister for Regional Growth and Local Government, Simon Clarke spoke to local authorities in England yesterday to set out that up to £617 million would be made available.

This is an additional 5% uplift to the £12.33 billion funding previously announced for the Small Business Grants Fund (SBGF) and the Retail, Hospitality and Leisure Grants Fund (RHLGF), so up to £617 million. The Government will confirm week commencing 4 May the exact amount for each local authority.

This additional fund is aimed at small businesses with ongoing fixed property-related costs. The Government are asking local authorities to:

Prioritise businesses in shared spaces, regular market traders, small charity properties that would meet the criteria for Small Business Rates Relief, and bed and breakfasts that pay council tax rather than business rates. But local authorities may choose to make payments to other businesses based on local economic need. The allocation of funding will be at the discretion of local authorities.

To be eligible:

- businesses must be small
- under 50 employees
- and they must also be able to demonstrate that they have seen a significant drop of income due to Coronavirus restriction measures.

There will be three levels of grant payments. The maximum will be £25,000. There will also be grants of £10,000. Local authorities will have discretion to make payments of any amount under £10,000. It will be for councils to adapt this approach to local circumstances.
Further guidance for local authorities will be set out shortly.

See: https://www.gov.uk/government/news/top-up-to-local-business-grant-funds-scheme?utm_source=c711a024-400a-41c6-a2b9-1a103a62ddaa&utm_medium=email&utm_campaign=govuk-notifications&utm_content=immediate

BOUNCE BACK LOAN SCHEME (BBLS) UPDATE

Chancellor Rishi Sunak has written to accredited lenders about how the Government wants BBLS to be run. He makes the point that as a 100% guaranteed loan scheme, the price of BBLS is critical to its success and that the loans need to ensure that these loans are affordable and accessible.

He has come to the decision that the interest rate should be set at 2.5%.

Interaction between BBLS and the Coronavirus Business Interruption Loan Scheme (CBILS)

Businesses will be able to borrow up to £50,000 under BBLS, capped at 25% of turnover. In order to ensure that businesses have a clear understanding of the support available to them under the loan guarantee schemes, the minimum facility size for term loans and overdrafts under CBILS will increase to £50,001 to avoid any risk of confusion or overlap. Any customer with a CBILS loan or overdraft of £50,000 or less will be able to switch that facility to a BBLS loan should they choose to do so over the next few months. This change to the minimum facility size will not apply to asset finance and invoice finance CBILS facilities.

Treasury Direction made by the Chancellor under Sections 71 and 76 of the Coronavirus Act 2020

The Government has released the Coronavirus Act 2020 Functions of Her Majesty's Revenue and Customs (Self-Employment Income Support Scheme) Direction.

It sets out that HMRC are responsible for the payment and management of amounts to be paid under the Self-Employment Income Support Scheme, as set out in the Schedule to the Direction.

The Direction sets out the legal framework for the Scheme.

Government announcement: https://www.gov.uk/government/publications/treasury-direction-made-by-the-chancellor-under-sections-71-and-76-of-the-coronavirus-act-2020?utm_source=40e61b90-3990-4bfb-bc04-5e6e39c928f6&utm_medium=email&utm_campaign=govuk-notifications&utm_content=immediate

THE CORONAVIRUS BUSINESS INTERRUPTION LOAN SCHEME (CBILS) UPDATE

This week seven of the largest lenders to UK SMEs have written an open letter stating a key change to the CBILS application process:

"Following the changes to the scheme announced today lenders will only ask businesses for information and data they might reasonably be able to provide at speed and we will not require the provision of forward-looking financial information or business plans from businesses applying for CBILS-backed lending, relying instead on our own information to assess credit and business viability.

https://www.ukfinance.org.uk/press/press-releases/uk-finance-issues-joint-statement-behalf-seven-largest-sme-lenders

This means that business owners applying to these seven banks (Barclays Bank UK, Danske Bank, HSBC, Lloyds Bank, NatWest, Santander and Virgin Money) no longer need to prepare a cash flow and business plan when applying to CBILS. This dramatically reduces the efforts required to put an application together.

Despite it now being a simpler process to apply for CBILS financing, a business owner should consider if taking on debt at this time is the right thing to do. To help make this decision preparing a forecast may be a very helpful tool to see how the cash position changes under different assumptions and scenarios.

This announcement appears to have arisen following a Prudential Regulatory Authority (PRA) announcement at the start of this week which requested lenders to consider the following in respect to CBILS:

“The performance of the business prior to the Covid-19 outbreak; a view of how the loan will be repaid in due course, relying on judgement in the absence of financial forecast information; and the general prospects for the sector in which the business operates once the effects of the pandemic have receded.”

See: https://www.bankofengland.co.uk/prudential-regulation/publication/2020/statement-on-the-regulatory-treatment-of-the-uk-cbils-and-the-uk-clbils

R&D Tax Credits and CBILS

R&D Tax Credits and CBILS are classed as state aid. Under state aid rules a business is only able to receive one form of state aid for a project.

HMRC have issued the following wording on this:

> **Are new Government support schemes introduced in response to the Coronavirus, such as CBILs, State aids or subsidies? Will they affect a company’s ability to make a claim under the SME scheme?**
>
> The Government has notified CBILS as a State aid under the European Commission’s new Temporary Framework for COVID-19. The measure is a fully notified aid, so the restriction on receipt of other State aid (s1138(1)(a) CTA 2009) potentially applies, if the CBILS relates specifically to the company’s R&D expenditure [on a project] rather than being intended more generally to support the company. This will depend on the facts. We will be monitoring the application of this rule and welcome feedback.

See: https://www.tax.org.uk/sites/default/files/200402%20HMRC%20Covid-19%20R%26D%20Update.pdf

This appears to state that if a CBIL is received by a business to help finance a specific project then that project is not eligible for future R&D tax credits (or at least SME R&D tax credits). It may still be eligible for RDEC.

However, if the CBIL is used for general business purposes (which seems more likely in most cases) then a project receiving R&D tax credits should still be eligible to receive them in the future.

It should be noted that HMRC have said they will be monitoring claims as they come which shows the answer is not black and white and further guidance is likely to be produced in due course.

Please talk to us about R&D we have helped several clients with these sorts of claims.

FURTHER DETAILS ON SELF-EMPLOYED INCOME SUPPORT SCHEME (SEISS)

On Friday 1 May 2020 the Government issued the legislation by way of a Direction to introduce the Self-Employed Income Support Scheme. At the same time HMRC issued more detailed guidance on the operation of the scheme.

The Self-Employment Income Support Scheme will allow taxpayers to claim a taxable grant of 80% of their average monthly trading profits, paid out in a single instalment covering 3 months, and capped at £7,500 altogether.

Key points that have changed since the previous version of the guidance:

1. HMRC guidance sets out information required to make a claim
2. The taxpayer has to claim and needs to set up Government Gateway account
3. Agents cannot make claims on their client's behalf
4. If taxpayers are unable to claim online an alternative way to claim will be available
5. Apart from those taxpayers subject to the loan charge their 2018/19 tax return must have been submitted by 23 April 2020 to qualify
6. Returns submitted between 26 March 2020 and 23 April 2020 will be subject to additional anti-fraud checks
7. Those taxpayers subject to the loan charge have until 30 September 2020 to submit their 2018/19 tax return
8. There is additional guidance on partnerships where some partners qualify and others do not – the grant belongs to the partner that qualifies for SEISS
9. SEISS is State Aid and may not be available if the taxpayer is already above the State Aid limit - watch farming clients as there is a 120,000 euro overall limit
10. Where the taxpayer is non-resident or taxed on the remittance basis their total income includes overseas income that is not subject to tax in UK.

Details from the updated HMRC guidance.

Who can claim?

Taxpayers can claim if they are self-employed individuals or a members of a partnership and:

- they carry on a trade which has been adversely affected by coronavirus
- they traded in the tax year 2018/19 and submitted their Self-Assessment tax return on or before 23 April 2020 for that year
- they traded in the tax year 2019/20
- they intend to continue to trade in the tax year 2020/21

The business could be adversely affected by coronavirus, for example if:

- They are unable to work because they:
    - are shielding
    - are self-isolating
    - are on sick leave because of coronavirus
    - have caring responsibilities because of coronavirus
- They have had to scale down or temporarily stop trading because:
    - Their supply chain has been interrupted
    - they have fewer or no customers or clients
    - their staff are unable to come in to work

When can we make a claim?

The online claim service is not available yet. **HMRC will aim to contact taxpayers by mid May 2020 if they consider that the taxpayer is eligible**, to invite them to claim using the GOV.UK online service. Payment will be made by early June 2020 if the claim is approved.

If taxpayers are unable to claim online an alternative way to claim will be available. HMRC will update their guidance with more information soon.

Information required to make a claim

- Self-Assessment Unique Taxpayer Reference (UTR) number
- National Insurance number
- Government Gateway user ID and password
- Bank account number and sort code you want us to pay the grant into (only provide bank account details where a BACS payment can be accepted)

Taxpayers will have to confirm to HMRC that their business has been adversely affected by coronavirus.

If taxpayers claim the grant HMRC will treat this as confirmation they are below the state aid limits.

HMRC will check claims and take appropriate action to withhold or recover payments found to be dishonest or inaccurate.

Tax agents or advisers cannot make the claim on their client’s behalf. Taxpayers are advised to contact them if you need any help or support.

Once the claim has been submitted the taxpayer will be notified straight away if the grant is approved. HMRC will pay the grant into the nominated bank account within **6 working days**.

Returns that are late, amended or under enquiry

If taxpayers did not submit their Self Assessment tax return for the tax year 2018/19 on or before 23 April 2020 they will not be able to claim. Claims based on late returns submitted between 26 March 2020 and 23 April 2020 will be subject to additional anti-fraud checks by HMRC.

When working out eligibility or the amount of the grant HMRC will not take into account Self Assessment tax returns for the tax years 2016/17 or 2017/18 if they are submitted after 23 April 2020.

HMRC will use data on the tax returns already submitted to identify those eligible to claim.

When working out eligibility or the amount of the grant HMRC will not take into account any changes made to submitted returns after 6pm on 26 March 2020.

HMRC will also only use the information in your original return if your tax return:

- is under enquiry
- has been the subject of a contract settlement

Members of a partnership

Each partner in a partnership will need to make a claim based on their own circumstances.

HMRC will work out your eligibility based on that partner’s share of the partnership’s trading profits.

If the partnership rules require the grant to be paid into the partnership pot, the partnership should give the full grant back to the partner that qualifies for the SEISS grant.

Self-Employed on or have taken parental leave

If the taxpayer is self-employed but when they apply or are taking a break from trading because of a new baby or adoption, or have done since 6 April 2019, they may still be eligible because HMRC will treat them as still trading.

If claiming Maternity Allowance this will not affect eligibility for the grant.

If taxpayer has loans covered by the loan charge and has not agreed a settlement with HMRC before 20 December 2019

If the taxpayer has received payment for work or services in the form of a loan or other form of credit covered by the loan charge, they may be able to claim the grant if they were self-employed in the tax year 2017/18 and have submitted their Self Assessment tax return for that year.

This also applies if the loans will be removed from the loan charge because of the changes announced by the government following the loan charge independent review.

HMRC will work out their eligibility and average trading profits based on either:

- the average of the tax years 2016/17 and 2017/18
- the tax year 2017/18 if they were not self-employed in the tax year 2016/17

Such taxpayers did not have to file their 2018/19 Self Assessment tax return by 23 April 2020 but have an extension to file by 30 September 2020.

Taxpayers claiming averaging relief

HMRC will use the amount of profit before the impact of the averaging claims for self-employed farmers or market gardeners, and creative authors and artists to determine:

- if they can claim the grant
- how much grant they will receive

Impact of State Aid limits

The Self-Employment Income Support Scheme is a state aid granted under the European Commission's Temporary Framework for state aid designed to respond to coronavirus (COVID-19).

Taxpayers should not claim the grant if they are already above the state aid limits or if claiming this grant would take them above those limits.

The maximum level of aid that a business may receive under the Temporary Framework is €800 000 (€120,000 per undertaking active in the agriculture and aquaculture sector or €100,000 per undertaking active in the primary production of agricultural products).

This limit applies not just to any aid that the taxpayer gets through the Self-Employment Income Support Scheme, but to any aid they claim across all measures granted under the terms of the European Commission's Temporary Framework.

The euro equivalent of the Sterling aid amount is calculated using the commission exchange rate applicable on the date the aid is offered.

If the taxpayer operates in more than one sector to which different maximum amounts apply (for example in both agriculture and industrial activities), they should keep separate accounts to avoid exceeding ceiling limits and cross-subsidisation of aid across different sectors.

The aid must be granted no later than 31 December 2020.

If taxpayers claim the grant they must be clear that this will not take them above the state aid limits, which are detailed above.

This aid is in addition to any aid that taxpayers may have received under the de minimis regulation which allows aid of up to €200,000 (or the lower limits that apply to agriculture and aquaculture), to any one organisation over a 3 fiscal year period (for example the current fiscal year and previous 2 fiscal years).

Non-resident taxpayers and those taxed on the remittance basis

Such taxpayers may be eligible for the grant if they are self-employed and are either:

- not resident in the UK
- resident in the UK and have chosen the remittance basis

They will have to confirm to HMRC that their UK trading profits are at least equal to their other worldwide income. Their total income includes “overseas income” for a tax year which is any amount of income which is not charged to income tax in the United Kingdom that is substantially similar to an amount of income that would be chargeable to income tax in the United Kingdom if it arose in the United Kingdom.