



COVID – 19 Update 17

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So, this is the 17th Covid-19 update, who would have believed it.

21st June, the longest day, is rapidly approaching, and after that it's the start of the slide down into winter, and the flu season. But life need not be a total downer, chocolate is apparently a firm favourite for homemade flavoured gins. So, armed with a large one of those, let's have a brief canter through what's happening in the wider world (which was at least until Monday anything outside your front door):

- Sir Jon Cunliffe, the Deputy Governor for Financial Stability at the Bank of England, told the Investment Association that banks have proven resilient during the coronavirus crisis, but hedge funds, insurers and money markets funds did not fare so well. Highly leveraged hedge funds became “an amplifier of stress” as they dumped gilts in a dash for cash, putting pressure on pension funds, insurance companies and ultimately super-safe money market funds, so reform may be needed in the future to bring more liquidity resilience into the non-bank parts of the financial system.

It's going to be interesting to see how well hedge funds performed this time round in de-risking investment portfolios. In the financial crisis of 2008, it appeared that many failed to do just that, and indeed in some instances exacerbated volatility.

- Nationwide BS reported that 20% of consumers are disinfecting banknotes whilst others have gone an average of 44 days without using cash, and the number of contactless payments made by Nationwide members increased from just over 7m in the first week of lockdown to 10.3m in the week beginning May 18.
- The UK's economy suffered the largest fall since records began during the UK's first full month of lockdown in April. ONS figures showed that the GDP slumped by 20.4% reflecting record widespread falls in services, production and construction output, 3 times greater than the drop experienced during the 2008 to 2009 economic downturn. Further job losses are predicted.
- With shops now reopening, and hairdressers but a fortnight away, it's hoped that we will have seen the low point for the UK economy but some sectors particularly hospitality, leisure and tourism may remain closed for some time still.
- Restaurants also look set to reopen on 4 July but its difficult to see how most will cope with the current 2m rule. That particular scientific hot potato is being reviewed, the big question being whether it's reduced to as little as 1m – which for those that like their personal space will simply be a return to pre-Covid days.

Sorry to go over this once more, but in case you hadn't got the idea from the 16 previous updates, this update as with all the others is written in good faith, based on an understanding of the current situation using published information which is being updated and clarified all the time. This is such a rapidly changing environment, and many of the topics touched on are not within our normal day jobs but included simply to be helpful.

This update does not then and never can represent definitive advice and should not then be relied on instead of taking proper, full advice informed as to your particular facts. Separate guidance and rules may apply in Northern Ireland, Wales and Scotland.

CJRS Over-Claims

On 5 June HMRC added information to its guidance on how to work out the amount to claim through the CJR scheme which finishes on 31 October 2020.

HMRC has also added a facility to the CJRS claims process to allow employers to declare over-claims of grants, and offset the excess grant claimed. The lack of an error correction facility had been the number one bugbear for tax agents and employers, who have sometimes struggled to calculate the correct amounts of employee costs to claim under the furlough scheme.

Where the employer has over-claimed the CJRS grant in an earlier claim they must adjust the amount claimed in the current claim, to take account of the amount of over-claim, and tick a box to say a correction is being made.

HMRC guidance says the employer should keep records of the amounts of the CJRS claims, the claim period for each employee, the calculations and any corrections made, for six years. However, similar HMRC guidance on the communication required with each employee about their furlough periods, says those records should be kept for only five years.

The online error correction facility only applies to over-claims of CJRS grants. If the employer has under-claimed the CJRS grant due they should not adjust the next CJRS claim.

To correct an earlier under-claim of the CJRS grant the employer should call HMRC on the coronavirus technical line: 080 0024 1222. The HMRC officer can put through a parallel claim for the extra grant due and provide a claims reference number.

The HMRC factsheet about the new flexible furlough scheme stated that around 40% of CJRS claims have not included employer NIC costs or employer pension contributions, which are both permitted as part of a claim.

The same factsheet said the average level of wages claimed under CJRS so far is £1,380 per month. This average monthly pay would generate an employer class 1 NIC liability of £89.42 and employer workplace pension contributions of £25.80, indicating an under-claim of £115.22 per employee per month using 2020/21 thresholds.

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. Penalties are possible in the future as the draft legislation taxing the CJRS grant also allows HMRC to claw back any coronavirus support payments which were not due.

Where directors do not notify HMRC of the over-claim of a CJRS grant, a penalty may be applied under the failure to notify rules, treating the error as deliberate and concealed. This would mean a penalty would be imposed at 30% to 100% of the overpayment if the employer voluntarily disclosed, or 50% to 100% of the overpayment where the disclosure was prompted by HMRC.

HMRC is expected to take a light-touch approach to penalties, and not penalise for genuine errors.

Covid-19 Discretionary Local Authority Grants

The Discretionary Grant Fund supporting small and micro businesses not eligible for other grant schemes opened on 8 June. Those with fixed property costs that are not eligible for the Small Business Grant Fund or the Retail, Hospitality and Leisure Grant Fund may be eligible for the Discretionary Grants Scheme for a grant of £25,000, £10,000 or any amount under £10,000.

You may be eligible if your business:

- is based in England
- has relatively high ongoing fixed property-related costs
- occupies property (or part of a property) with a rateable value or annual mortgage/rent payments below £51,000
- was trading on 11 March 2020
- suffered a significant fall in income due to coronavirus.

The Government has asked local councils to prioritise businesses such as:

- small businesses in shared offices or other flexible workspaces, such as units in industrial parks or incubators
- regular market traders
- bed and breakfasts paying council tax instead of business rates
- charity properties getting charitable business rates relief, which are not eligible for small business rates relief or rural rate relief

Local councils have discretion about how to prioritise this funding via their websites. You can't apply if your business is in administration, insolvent or has received a striking-off notice or you are already claiming under another government grant scheme, such as:

- Small Business Grant Fund
- Retail, Hospitality and Leisure Grant
- Fisheries Response Fund
- Domestic Seafood Supply Scheme
- Zoos Support Fund
- Dairy Hardship Fund

Businesses that apply for the discretionary grants scheme can still apply for coronavirus-related loans if they are eligible. You are still eligible if you have applied for the Coronavirus Job Retention Scheme or the Self-Employed Income Support Scheme.

The discretionary grants fund counts towards state aid. Payments of £10,000 or less count towards the total de minimis state aid you can get over a 3-year period - €200,000. If you have reached that threshold, you may still be eligible for funding under the COVID-19 Temporary Framework. Payments of £25,000 count as state aid under the COVID-19 Temporary Framework. The limit for the framework is €800,000.

Your local council will ask you to complete a declaration confirming that:

- you will not exceed the relevant state aid threshold
- you were not an 'undertaking in difficulty' on 31 December 2019. This applies only to the COVID-19 Temporary Framework

To find your local council see: <https://www.gov.uk/find-local-council>

Full report see: https://www.gov.uk/guidance/apply-for-the-coronavirus-local-authority-discretionary-grants-fund?utm_source=281bab0e-92ec-4a01-ab95-81f8181c1364&utm_medium=email&utm_campaign=govuk-notifications&utm_content=immediate

VAT Deferral

HMRC has confirmed that where taxpayers wanted to defer VAT payments due between 20 March 2020 and 30 June 2020, but did not manage to cancel their Direct Debit in time can claim a refund.

The quickest way for taxpayers to do so, according to HMRC, is to submit a Direct Debit Indemnity Claim to their bank, ensuring that they state they want to claim a refund under the Direct Debit Indemnity Scheme (DDI). HMRC confirms that there is no time limit in making this request.

If the taxpayer wants a repayment from HMRC rather than contacting the bank, they must ensure that their bank details are updated using the online services.

HMRC reminds taxpayers that due to COVID-19 restrictions, Payable Orders are not being issued and that it may take up to 21 days for the refund to be received if the Direct Debit Indemnity Claim process is not used.

HMRC will provide further guidance on the payment of the deferred amount at the end of the deferral period. Businesses will also need to make arrangements to pay VAT falling due from 1 July 2020 to 31 March 2021 (i.e. not deferred). Confirmation is awaited that reinstating a Direct Debit will not result in the deferred VAT being collected immediately. A change in the way that HMRC collects Direct Debits for those in MTD for VAT makes this a possibility and HMRC needs to ensure that does not happen.

SEISS 2.0

HMRC will extend the self-employed income support scheme (SEISS) for a final, further three-month period, and nothing further after this.

Applications for the second SEISS grant will open in August, and further details of the exact timing will be released shortly, followed by a more detailed plan to simulate the economy to be set out in a mini-Budget in early July.

This second grant will be payable at a level equivalent to 70% of the taxpayer's annual average profits, capped at £2,190 per month, so the maximum amount payable will be £6,570 to cover three months.

The qualifying conditions for the second SEISS grant will be the same as for the first grant. There is no indication that traders who were excluded from the SEISS because they started their business on or after 6 April 2019 will be eligible for the second SEISS grant. Eligible taxpayers will have to make a separate claim for SEISS 2.0, as the existing SEISS claim will not be rolled over, confirming that their business has been adversely affected by coronavirus.

The term “adversely affected” is not defined in the HMRC direction (the law) which sets out the SEISS conditions, there is no monetary threshold but HMRC guidance indicates it would include a reduction or temporary halt in business activity due any of these reasons:

- supplies not arriving
- fewer customers
- staff unable to work

Applications for the first SEISS grants opened on 13 May 2020 and will close on 13 July. Around 2 million self-employed people have not applied for the SEISS so far. This could be because their profits are too high – above £50,000 on average per year, or because the business has not been adversely affected by coronavirus. HMRC has confirmed that taxpayers do not have to claim the first SEISS grant to be eligible to claim the second grant.

The SEISS grant is taxable income, or it will be when this draft legislation is passed, which is out for consultation until 12 June 2020.

This draft law brings into the taxation system all the coronavirus business support schemes including CJRS, grants paid out by local authorities, and any future coronavirus grant schemes which may be introduced. The Covid-19 grants will be taxed entirely in the year of receipt (2020/21), and not apportioned to 2019/20. The SEISS grants will have to be reported on the taxpayer’s 2020/21 self-assessment tax return.

Regulations will also permit HMRC to tax recipients of SEISS or CJRS, if they have received payments under those schemes to which they are not entitled. In the case of CJRS if the money has not been used to pay furloughed employee costs tax will be charged on the amount of CJRS grant received and penalties will be levied in cases of deliberate non-compliance.

The SEISS grant is outside the scope of VAT (see VAT manual SC06312) so there is no VAT to pay on that grant income if the business uses the VAT flat rate scheme. The SEISS grant should not be included on VAT returns as turnover and it must not be added to turnover for the last 12 months to assess whether the business has exceeded the VAT registration threshold of £85,000.

CJRS: Direct Payments

CJRS can be used by direct payment holders who employ people for their care. This guidance helps people who buy care and support through a direct payment to know how and when they can use the CJRS to furlough employees during the coronavirus (COVID-19) outbreak.

It includes examples of when direct payment holders may or may not choose to use the CJRS, employ people for their care.

See: https://www.gov.uk/government/publications/coronavirus-job-retention-scheme-people-receiving-direct-payments?utm_source=6dc998fd-c24c-4159-b209-8c5aa1bbbde2&utm_medium=email&utm_campaign=govuk-notifications&utm_content=immediate

Paternity and Maternity Leave

Those returning to work in the coming months will be eligible for the government's furlough scheme even after 10 June cut-off date.

The CJRS will close to new entrants at the end of June as new flexibilities are introduced to support economy. This will only apply where they work for an employer who has previously furloughed employees and also applies to people on adoption leave, shared parental leave, and parental bereavement leave.

See: https://www.gov.uk/government/news/parents-returning-to-work-after-extended-leave-eligible-for-furlough?utm_source=55d26224-7200-4eed-b333-f3c4f11ce1f9&utm_medium=email&utm_campaign=govuk-notifications&utm_content=immediate

State Aid

The support packages have provided a much-needed lifeline but may lead to state aid headaches for those that benefit from them. This will be the first time many businesses will have heard of the esoteric world of state aid. This still applies till we leave the EU, and who knows what the rules will be after that.

The EU state aid rules are complex but are designed to prevent member states introducing measures which may otherwise distort competition within the single market. Broadly, a measure will constitute state aid if it is an advantage granted by a member state on a selective basis that could distort competition and trade in the EU. That includes grants, loans, or tax breaks only available to businesses of a certain size, or to certain sectors or industries.

Where a member state believes that a form of state aid would deliver growth or other important objectives, it can request approval from the EU. This is often referred to as *notified* state aid.

Alternatively, a scheme which will only give small amounts of aid can be designated as *de minimis* state aid. Whilst this removes the need for EU approval, there is a ceiling on how much de minimis aid you can receive. For most businesses, this will be €200,000 over a three-year rolling period – although much lower levels apply for the agriculture, aquaculture and fisheries, and road haulage sectors.

Receiving state aid can affect the ability to claim certain tax reliefs such as employment allowance (EA) and R&D tax relief. From 6 April 2020, the EA is only available to employers with a secondary NICs liability below £100,000 in the previous tax year. This makes it state aid, which the government has chosen to classify as de minimis state aid.

For future years, employers will have to claim the EA each year through their Employer Payment Summary (EPS) as the claims will no longer automatically carry forward as they have in the past. When making a claim for EA, employers will be asked to confirm that they have sufficient headroom in their de minimis ceiling(s) to accommodate the full EA of £4,000. Being in receipt of significant de minimis state aid could prevent the EA from being claimed. The receipt of state aid can also restrict the ability to claim R&D tax relief under the SME regime. Very broadly, an R&D project will be completely excluded if notified state aid is received in respect of it, and any expenditure covered by de minimis state aid is not eligible for relief.

Any business receiving assistance that was state aid should have been informed of this at the time and told whether it is notified, or de minimis. However, businesses may not always have the original paperwork to hand, especially when it comes to looking back three years for the purposes of the de minimis ceiling. Unfortunately, there is no list or register of state aid which can be consulted, so it may be a case of applying best judgement or seeking to confirm with the awarding body if in doubt.

Finally, although state aid is an EU measure, we do still need to worry about it during the Brexit transitional period – which is currently due to expire on 31 December 2020.

Currently:

- the Small Business Grant Fund (SBGF) is de minimis state aid;
- the Coronavirus Business Interruption Loan Scheme (CBILS) and Retail, Hospitality and Leisure Grant Fund (RHLGF) are notified state aid under the European Commission's new temporary framework.

Claiming the SBGF could therefore potentially affect EA eligibility. However, HMRC has indicated that, where the de minimis ceiling has or would be reached by accepting the SBGF, the grant can be received as notified state aid under the EU's coronavirus temporary framework, instead – provided that the applicable conditions are met. More information can be found in the official grant funding guidance.

With regard to CBILS, HMRC has confirmed that relief cannot be claimed under the R&D SME scheme 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. The position is presumably the same for the RHLGF.

We understand that most UK Covid-19 related support will fall into one of the following categories:

1. Not state aid

Some business support schemes are not state aid as they are universally available and not restricted to businesses of certain size, sector or region.

This includes:

- coronavirus job retention scheme (CJRS)
- deferral of VAT and income tax payments

In addition, government guidance indicates that the business rates relief for retail, leisure and hospitality and childcare nurseries is not state aid given the impact of coronavirus on those sectors.

2. De minimis aid

Amounts received under the Small Business Grants Fund (SBGF) are classed as *de minimis* state aid, meaning they count towards the usual limit of €200,000 (lower for agriculture, aquaculture and fisheries and road haulage) over a three-year rolling period. When claiming the SBGF, the local authority should ask the business to complete a *de minimis* declaration confirming that it will not exceed the state aid threshold. However, if claiming would take the business over the threshold, it can instead opt to receive the grant as approved aid under the temporary framework (see below).

3. Approved under the temporary framework

The following measures are state aid, but they have been approved under the temporary framework, subject to certain conditions and limits:

- retail, hospitality and leisure grant fund (RHLGF)
- coronavirus business interruption loan scheme (CBILS) interest and other direct payments (but not guarantees – see below)
- bounce back loans
- statutory sick pay (SSP) reclaims
- SBGF claims that would exceed the *de minimis* cap (see above)

Importantly, all of the above are subject to an overall combined cap of €800,000 per undertaking (lower levels apply for agriculture, aquaculture and fisheries), and claimants must not have already been *in difficulty* (see below) on 31 December 2019.

4. Approved under the temporary framework – no cap

The following are also state aid which has been approved under the temporary framework, but we understand that they are not subject to the €800,000 cap:

- self-employment income support scheme (SEISS)
- CBILS loan guarantees

It is worth noting that, whilst the €800,000 cap does not apply to CBILS guarantees, the claimant must not have been in difficulty on 31 December 2019.

The good news is that those who are only claiming under the CJRS, receiving business rates relief and/or deferring tax payments are unlikely to have to consider state aid implications. However, those benefitting from other measures do need to stay alert. In particular, if a business receives any support which is either *de minimis* or subject to the temporary framework cap, it should ensure that it doesn't unintentionally exceed either of the two separate thresholds.

The thresholds are expressed in euros (and not £) and lower thresholds can apply in agriculture, fisheries and road haulage. In addition, *de minimis* aid needs to be looked at over a three-year rolling window taking into account other, non-coronavirus related *de minimis* aid claimed (such as the employment allowance).

Companies House

Companies House has developed a temporary online service to upload a number of completed forms and send them to Companies House digitally, and the range of forms is being expanded.

You must use the existing online services to:

- file your accounts
- file your confirmation statement
- make changes to your company
- close your company

See: https://www.gov.uk/government/publications/sending-your-forms-to-companies-house-during-the-coronavirus-outbreak?utm_source=104c5999-09f3-4ec1-9284-

[fc67b50b87f8&utm_medium=email&utm_campaign=govuk-notifications&utm_content=immediate](https://www.gov.uk/government/news/thousands-of-high-street-shops-department-stores-and-shopping-centres-to-reopen-safely-in-england?utm_source=c9eb05d7-a79d-4542-9de0-74563debe6cd&utm_medium=email&utm_campaign=govuk-notifications&utm_content=immediate)

Shops

Shops in England selling non-essential goods were able to reopen from Monday 15 June provided they follow the COVID-19 secure guidelines set out by the government in May.

Retailers need to take steps to protect customers and staff, including limiting the number of customers allowed inside at one time, placing protective coverings on large items such as sofas which may be touched by passing shoppers, and frequently checking and cleaning objects and surfaces.

Employers should also display a notice visibly in their shop windows or outside their store to show their employees, customers and other visitors that they have followed this guidance. In summary.

See: https://www.gov.uk/government/news/thousands-of-high-street-shops-department-stores-and-shopping-centres-to-reopen-safely-in-england?utm_source=c9eb05d7-a79d-4542-9de0-74563debe6cd&utm_medium=email&utm_campaign=govuk-notifications&utm_content=immediate

International Travel

There's loads of guidance on this but it's beyond the scope of this newsletter and our own scuppered holiday plans to summarise these.

Some travellers will be exempt from new border rules in the UK and so may not need to provide their journey or contact details or self-isolate for 14 days after they arrive. There are different self-isolation rules and penalties depending on which part of the UK you are travelling to.

If you are asked to show a letter from your employer, you do not need to show a physical copy. For example, you could show a Border Force official the letter on your smartphone.

See: https://www.gov.uk/government/publications/coronavirus-covid-19-travellers-exempt-from-uk-border-rules?utm_source=0442da9f-b07d-4769-a81c-9d2ae78cf98d&utm_medium=email&utm_campaign=govuk-notifications&utm_content=immediate

NHS Hospital Staff and Visitors

All staff in hospitals in England will be provided with surgical masks which they will be expected to wear from 15 June. All visitors and outpatients must always wear face coverings.

See: https://www.gov.uk/government/news/face-masks-and-coverings-to-be-worn-by-all-nhs-hospital-staff-and-visitors?utm_source=1045a353-73f7-464d-9080-324ab1d540cf&utm_medium=email&utm_campaign=govuk-notifications&utm_content=immediate

Renters

The suspension of evictions from social or private rented accommodation has been extended to 23 August and new court rules will ensure vulnerable renters will be protected when the suspension of evictions ends. The object has been to ensure that no one is evicted from their home this summer due to coronavirus.

See: https://www.gov.uk/government/news/ban-on-evictions-extended-by-2-months-to-further-protect-renters?utm_source=7ddb357-8c11-4311-b527-d32a462f5a09&utm_medium=email&utm_campaign=govuk-notifications&utm_content=immediate