Butt Miller

Chartered Accountants

Coronavirus

Financial Information for Businesses

Employers

This is the latest information available to us in relation to the various support packages announced by HMRC as at Tuesday, 31 March 2020.

Employers

The Government has announced a package of support for employers, which includes:

- Reclaiming up to two weeks of Statutory Sick Pay that has been paid to staff contracting the virus;
- reclaiming up to two weeks of Statutory Sick Pay that has been paid to staff who have been required to self isolate because of exposure or suspected exposure to the virus;
- a scheme to reimburse up to 80% of the salaries of workers retained, but for whom you have no work.

Statutory Sick Pay

What we know:

- From 13 March an employee with Coronavirus will be entitled to statutory sick pay from day 1 of their illness
- SSP lasts for up to 28 weeks.
- Employees required to Self Isolate will also be entitled to SSP
- The employee should obtain a sick note from NHS 111 online to qualify for SSP, if absence exceeds 7 days.
- The recovery of SSP does not apply to larger employers (more than 250 employees).

Furloughed Employees

What we know:

- You will need to consider the terms of each employee's contract to ascertain your legal obligations to them as an employer.
- Contracts may not permit a reduction in salaries, and you would need to agree changes to contracts with the employee on a case by case basis.
- If you do not have enough work for employees, you can put them on temporary leave, but if the employment contract does not cover lay offs you will need to get agreement from the employee first.
- Beware of breaching the employment contract.
- It is advisable to approach the selection process in the same way that redundancies would be approached, in order to protect the business from claims of discrimination.
- Where an employee accepts the Furlough offer at a reduced salary of up to 80% of their contractual pay, the government will cover the costs of keeping these workers, to a limit of £2,500 per month for each worker.
- You can pay the employee more than 80% of their contractual pay whilst on Furlough (and you may be contractually obliged to continue with full pay), but the additional cost will be your responsibility.
- The HMRC reimbursement is for "regular" income, so does not include commissions and bonus payments.
- These workers have to be registered on the website that HMRC are currently developing, which is expected to go live in early April.
- You should continue to pay the employees and report to HMRC through RTI in the usual way.
- HMRC may not pay the grants until the end of April.
- The Grants will form part of your business income, but you will claim a deduction for employee costs in the accounts.
- Furloughed workers will not be able to do any work for you during this period.

It is the employer's decision as to whether an employee should be offered Furlough, employees cannot insist on Furlough leave.

HMRC have now confirmed:

- The cap noted above is before National Insurance and pension.
- You would not be able to add employees to the list that were not in your employment at 28 February.
- Employees who were made redundant after 28 February can be re-employed in order to benefit from the Furlough scheme.
- Employees can be brought out of Furlough to carry out work, but any period of Furlough must be for at least 3 weeks.

The following still require confirmation:

- The employees would not be able to take up alternative temporary work whilst being registered as Furloughed.
- Employees on Furlough can take on voluntary work or may undergo training, as long as the business does not earn income from that training.
- You would not be able to increase the employee's earnings above their normal earnings during this period.
- We are awaiting further details on exactly how the grant is to be calculated in general, but also specifically in relation to those employees who:

o Work irregular hours;
o Are new employees;
o Are Seasonal workers;
o Those on maternity or sick leave.

We will clarify these points as more information becomes available.

In the interim, you are entitled to require your employees to use holiday entitlement whilst you have no work available for them.

HMRC have advised that there will be audits of these claims once the current crisis has passed. Therefore, please ensure that you keep detailed records of the timing of the decisions and your rationale behind the decisions, together with any correspondence between you and your employees.

Directors and Furlough

HMRC have now confirmed that company directors qualify for the Furlough Scheme, even though they will continue to have statutory duties to carry out for the company. However, you will need to be careful in this instance to ensure that any work carried out by the director is strictly within the definition of Statutory duties.

Statutory Duties of a Director

- Act in the best interests of the company;
- Follow its constitution and Articles of Association;
- Maintain confidentiality of the company's affairs;
- Promote the success of the company;
- Avoid conflicts of interest;
- Ensure the company meets statutory compliance obligations;
- Ensure that the company is solvent;
- Act in the best interests of the creditors if the company is likely to become insolvent.

The Government is proposing a relaxation of the insolvency rules and statutory duties and these notes will be updated when that information is available.

In the meantime there are still points that need clarification:

- It is not clear whether a director who is on Furlough will still be able to make decisions about operational matters, where staff are still working, for example.
- It is not clear how the availability of some work for the company whilst a director is on Furlough will be treated – can the director refuse the work, as they are on Furlough, even if in the short term it is better for the company to accept the work?
- Can a director subcontract the work to a third party to avoid having to come out of Furlough?

Business Interruption Loans

If you continue paying employees, you may wish to consider an application to Business Interruption Loan Scheme to provide cash flow to pay employees whilst you are waiting for the grants from HMRC. The banks are offering loans backed by the Government, which will be interest free for the first 12 months.

By way of example, one of the High Street big 4 banks has advised us of their terms:

- Loans are available for £25,001 up to £5m.
  1. £25,001 - £100,000 - Secured by short form guarantee
  2. £100,001 - £250,000 - Secured by short form guarantee and debenture
  3. £250,001+ - Personal Guarantee, debenture and tangible security
- Loans are capped at the greater of 25% of turnover or two times the annual payroll cost
- Interest free for first 12 months
- Deferment of repayments for up to 12 months
- Minimal administration for applications
- Security may be required
- Unsecured Loans will be capped at £250k

We understand these to be fairly standard terms, but the precise details will vary from lender to lender. If you are considering applying for a loan we would suggest contacting your own bank in the first instance.

You will need to put together a business proposal including a monthly profit and cash flow forecast to make the application to the bank, and Butt Miller will be happy to help with the proposal and forecasting.

Early experiences

There is obviously a significant demand for these loans as almost all businesses are struggling for cash flow.

If you need to make an application,

- Bear in mind that you will be responsible for paying back the whole of the loan, not just the 20% that is not government backed;
- Some banks are requiring personal guarantees;
- If the business cannot pay back the whole of the loan, your guarantee will be called to cover as much of the loan as possible before resorting to collecting the balance from the government;
- The simpler and easier you can make your business proposal the quicker your application is likely to be processed;
- A business that was viable before the crisis should be accepted for a loan now;
- Providing information on how the management is reducing costs and managing cash flow is essential;
- Anticipating how the business will manage cash flow if the situation continues to deteriorate will help your application;
- Your bank may offer an alternative package that is outside the scheme. Check carefully to ensure that this package is in fact better for you.

Settlement of Taxes that remain payable – Corporation Tax, PAYE and NIC

HMRC have been operating a Time to pay scheme for a number of years, and this has been enhanced to assist businesses that are struggling to settle taxes due as a result of the Coronavirus outbreak. The number to call is 0800 0159 559. If the liability is not yet due, you will need to call them nearer the due date for payment. HMRC will expect you to have a payment plan proposal when you call.

New information about these initiatives is being published constantly, so as and when anything significant and relevant becomes available, we will of course update this guidance.

How we can help? Please contact us if you would like further advice.

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