The Construction Industry
Joint Taxation Committee

JTC

JTC NEWSLINE

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COVID-19: Coronavirus Job Retention Scheme (CJRS)

Details for the CJRS scheme - 1 November 2020 up to 30 April 2021, the cash grant payable to employers who are unable to maintain their workforce because their operations have been affected by Coronavirus.

- Employers may furlough employees and claim a CJRS grant in respect of hours not worked by furloughed employees.
- For claim periods running between 1 November 2020 and 30 April 2021, employers can claim 80% of an employee's usual salary for hours not worked, up to a maximum of £2,500 per month.
- Employers can top up employee wages for hours not worked above the maximum salary threshold at their own expense.
- Employers will pay the employee's wages for the hours they work as normal, as well as employer National Insurance and employer pension contributions.
- For hours not worked, employers will cover employer National Insurance and pension contributions.
- Employees will pay Income Tax and National Insurance deductions on all amounts paid to them, as normal.
- Employers do not need to have used the CJRS previously.
- Employers across the UK can claim, whether their businesses are open or closed, providing they have a UK PAYE scheme created before 30 October 2020, a UK bank account and are enrolled for PAYE online.
- Publicly funded organisations should not use the scheme. Partially publicly funded organisations may be eligible where their private revenues have been disrupted.
- For claim periods starting on or after 1 December 2020, HMRC will publish, from February 2021, employer names for those who have made claims under the scheme. This will also include an indication as to the value of the claim based on 14 banded ranges.

What's new in the support available?

- You and your employees do not need to have benefitted from the scheme before to claim for periods after 1 November.
- There are now monthly deadlines for claims. This means that you may need to submit earlier than you have in previous months.
- The full guidance for claims from November onwards, including how you can check if you're eligible, how to calculate and make a claim online can be found on GOV.UK.

Publishing employers' information

- From February, HMRC will publish the names, an indication of the value of claims and Company Registration Numbers (for those who have one) of employers who make CJRS claims that cover periods from December onwards.
- You can see more on how HMRC will indicate the value of these claims in banded ranges on GOV.UK.
- Employers can request their details are not published where disclosure of this Information would result in a serious risk of violence or intimidation to the employer, an employee, director or member of their household.
- Details of CJRS claims will be published monthly as part of HMRC's commitment to transparency and to deter fraudulent claims.
- Employees will also be able to check if their employer has made a CJRS claim on their behalf through their online Personal Tax Account from February.
- Employees should talk to their employer in the first instance if they have any questions. ■

PAYE Coronavirus tests exempt benefit

HMRC have confirmed that where an employer reimburses an employee for the cost of a Coronavirus test, that reimbursement will be exempt from Income Tax and National Insurance. This latest measure will apply where employees purchase their own Coronavirus swab tests and are reimbursed by their employer.

- For this purpose, a Coronavirus swab test means a test which detects the presence of a viral antigen or viral ribonucleic acid (RNA) specific to severe acute respiratory syndrome Coronavirus 2 (SARS-CoV-2).
- HMRC have indicated that the Coronavirus test must be accessed for business reasons, for example where an employee needs a negative test result to travel abroad for business.

This follows HMRC's announcement in July 2020 that employer-provided Coronavirus testing kits would not give rise to a taxable Benefit In Kind. ■

CJRS claims not valid for Christmas shutdowns

HMRC have issued a reminder as to what can be claimed under the CJRS in light of the holiday season. Claims to cover the wages of furloughed staff can only be made when the furlough is as a result of COVID-19 affecting the business.

Businesses which are normally less busy over the Christmas period or close for the holidays will not be able to furlough staff and make a claim. HMRC guidance specifically states that employees may not be furloughed simply because:

- They will be taking paid leave.
- The claimant usually does less business over the festive period.

The guidance also includes a reminder that staff on annual leave should be paid at their normal rate of pay under the Working Time Regulations (WTR). Where this is more than the amount claimed under CJRS, the employer must make up the difference. ■

SEISS - new criteria may catch some traders out

Self-employed individuals claiming the third Coronavirus grant under the Self-Employment Income Support Scheme (SEISS) may be unaware of important changes made to the qualifying criteria for the grant.

To make a claim for the third SEISS grant, a business must have had a new or a continuing impact from Coronavirus between 1 November 2020 and 29 January 2021 and one which they reasonably believe will significantly reduce profits.

A trader may only claim if their business is adversely affected by Coronavirus and they are currently trading. Either of the following must also apply:

- They are impacted by reduced demand due to the Coronavirus. This means less work is available despite their actively looking for new work.
- They are temporarily unable to trade due to the Coronavirus, this means being forced to close due to restrictions, illness or shielding or having to look after family.

Broadly, no third grant should be claimed if the business is unaffected or if the business is only affected by the owner's actions. HMRC gives a range of examples of situations where conditions to claim the third SEISS grant are met and where they are not. Included in the examples are cases where a business was interrupted by its owner's self-isolation as a result of returning from a holiday, and where the trader chose to take less work because he wished to partially retire. ■

Budget 2021

The Chancellor, Rishi Sunak, has announced that Budget 2021 will be held on 3 March 2021.

Mini umbrella company fraud

HMRC are on the lookout for mini umbrella company fraud and are issuing a full public warning.

- Every business which either places or uses temporary labour should be aware of the potential dangers posed to their business by mini umbrella company (MUC) fraud in their supply chain.
- Not only can a fraudulent supply chain lead to reputational and financial damage to your business, but your workers may not receive all they are entitled to. MUC fraud also significantly reduces tax payments to HMRC including PAYE, National Insurance and VAT.
- As an end user or provider of temporary labour it is your responsibility to be clear about who ultimately pays the workers and how they are paid. This is the only way to protect your business from becoming entangled in MUC or other supply chain frauds.
- Most MUC arrangements are considered to be fraudulent, so make sure you spot the warning signs to protect your business. ■

What is mini umbrella company fraud?

- The MUC model is an employment intermediary model which presents an organised crime threat to the UK Exchequer.
- The fraud is primarily based around the abuse of two Government incentives aimed at small businesses – the VAT Flat Rate Scheme and the Employment Allowance. But this type of fraud can also result in the non-payment of other taxes such as PAYE, National Insurance and VAT.
- MUC fraud is not limited to specific trade sectors and can be found in supply chains whenever temporary labour is used. It is frequently observed in construction.
- In its simplest form the MUC fraud model involves splitting up a workforce into hundreds or thousands of small limited companies set up solely to enable the fraud. The workforce is generally a temporary workforce who historically would have been paid by an employment agency or an umbrella company.
- The structuring of the MUCs is facilitated by a promoter business (sometimes also known as an outsourcing business) which may have other linked businesses to support the operation.
- The creation of the MUCs and the complex layers of businesses within the supply chain help to facilitate the fraud.
- For employees, who are often oblivious to these arrangements, the use of this model can result in the loss of some employment rights. Workers in MUCs are usually unaware of who their employer is and they can be moved regularly between MUCs to help maximise profits from the fraud. ■

How you can spot Mini Umbrella Company fraud and protect your business?

There is not a standard MUC fraud model and arrangements are constantly evolving as organised criminals try to hide their fraudulent activities from HMRC. However, there are some common features which businesses might come across during their regular due diligence checks.

Information from reputable sources such as the Companies House register might help to spot warning signs when completing the quarterly Employment Intermediary Reports or the Key Information Document for Workers.

- **Unusual company name:** Often multiple companies are set up around the same time which have a similar or unusual name. These companies will often be registered at an address which does not seem suitable for the types of business activities.
- **Unrelated business activity description:** Do the nature of the business activities described in the Companies House entries seem compatible with the services provided by the workers?
- **Directors being foreign nationals:** Often foreign nationals are appointed as directors when an MUC is formed or they can replace a temporary UK resident director after a short period of time. Usually, the directors will have no prior experience in the UK labour supply industry.
- **Unusually high movement of workers:** Are workers moved between different employers who meet the above criteria for being MUCs on a frequent basis?

How you can spot Mini Umbrella Company fraud and protect your business? contd

- **Very short-lived businesses:** The individual MUCs have a fairly short lifespan (often less than 18 months) before being allowed to be dissolved by Companies House because of their failure to meet their filing obligations. New MUCs will then take their place in the supply chain. You should notice this as you may find that you need to issue a new Key Information Document to workers on a regular basis.

As the MUCs sit low down in the supply chain it may be challenging to spot them. HMRC advises businesses to remain vigilant, especially where the employer of the worker is not the umbrella company they may have a contract with. Always check with the workforce on your sites who they believe they are working for and ask yourself if it is a party you know

It is important for businesses to consider the credibility of the supply, the payment arrangements and other surrounding circumstances to help safeguard themselves from financial, operational and reputational risks. HMRC will believe that all businesses, from worker to main contractor, are tainted by knowledge of fraud if fraud is found in the payment trail. ■

VAT reverse charge will start in less than 6 weeks

There has been no delay announced to the start of VAT reverse charge and any announcement now is unlikely.

You **must** be ready by 1 March 2021

- Have you the right software installed to action VAT reverse charge and do your accounting staff know how to use it?
- Do you have formats for invoices and applications for payment that show that they are issued under reverse charge legislation and do not ask for VAT payment?
- Have you warned all the traders you usually subcontract to that you are CIS and VAT registered and therefore will not expect them to invoice for VAT after 1 March? (The exception will be builders merchants and suppliers of goods only, and **genuine** labour agencies).
- Have you watched the HMRC reverse charge webinar? It is important to watch it at least twice to let it seep in. This is an huge change and you do not want to fail at the start.

Email **Liz@thetaxbridge.com** if you have any questions and I will send out the JTC guidance and respond to queries. ■

IR35 starts 6 April 2021

Keep a cool head – IR35 starts 6 April 2021 and if you engage or supply contractors who work for their own limited company, there are some important tax changes.

- In less than 100 working days the way you pay contractors may change. Changes to the off-payroll working rules (IR35) come into effect on 6 April 2021.
- Check who works for your firm on anything like regular terms even one day a week and who is not on your payroll.
- Learn what a CEST test is and run through it the names and working terms of anyone who is not on the payroll.
- Be prepared to negotiate new terms and conditions if IR35 legislation ‘bites’ because their wages will go down as tax and NIC are deducted but they will not get enhanced employment rights - few people will want to continue on the terms agreed. ■

If you have a query on any item in newsline contact
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