

## What do we know now?

Late last night H.M. Revenue and Customs published detailed guidance on the Job Retention Scheme. Here we will try to answer many of the common questions that we have received over the last few days.

## Which employees can I furlough and claim for?

To be eligible to be furloughed an employee must have been on your PAYE payroll on 28 February 2020 but can be on any type of contract including:

- Full time
- Part time
- Employees on agency contracts
- Employees on flexible or zero hour contracts

Any employee hired after 28 February 2020 are not eligible for the scheme.

## I am a director of my own company – can I still be furloughed?

Yes, we understand that directors can be furloughed if the business has effectively closed but you must still be bound by the rules not to work for the company. It may be necessary for a sole director to notify all suppliers, customers and other business contacts that the business has been suspended pending the end of the Coronavirus crisis. In many cases this is impractical and undesirable because the director may wish to use this time working on improving the business so that when trading recommences the business performs well quickly. In these circumstances, furloughing is not permitted. We would also highlight that many owner managed company director/shareholders pay small salaries and the balance of income as dividends. The scheme does not extend to dividends. Only the salary being paid through PAYE is relevant to the scheme. This is based on our current view and available guidance, but each case will of course depend upon its own particular circumstances.

## What if I made someone redundant before this scheme was announced?

The scheme also extends to cover employees who were made redundant after 28 February 2020 as long as they are rehired by their employer.

## If an employee is doing reduced hours can they be partially furloughed?

No, once an employee has been furloughed they should not do any work for the employer of any nature. Therefore if they are working on reduced hours they are not eligible for this scheme and should be paid through the payroll in the usual way.

## Once I have furloughed staff how much can I claim?

Once you have furloughed an employee you will be entitled to make a claim for a grant from H.M. Revenue and Customs to cover the lower of:

- 80% of the employee's regular wage or;
- £2,500 per month

H.M. Revenue and Customers have now confirmed that the grant can cover the associated Employer's National Insurance and minimum automatic enrolment pension contributions based on the subsidised wage. (Full details on how to calculate these have not yet been published).

H.M. Revenue have confirmed that the grant does not cover fees, commissions and bonuses.

### **Do I have to top up the employee's salary to 100%?**

The short answer is no. As a minimum, employers must pay their employee the lower of 80% of their regular wage or £2,500 as shown above. However, an employer could choose to top the employee's salary beyond this scheme but has no obligation to do so.

### **I pay some staff hourly so what is meant by an Employee's regular wage?**

If the individual is being paid on a variable basis (i.e. not a salary) and they have been employed for more than twelve months you should claim for the higher of:

- The same months earnings from the previous year
- Average monthly earnings from the 2019-2020 tax year

Where an employee has been employed for less than a year, you can claim for their average monthly earnings since starting to work for you.

### **What about my salaried staff?**

Where you employ full time and/or part time employees on a salaried basis, you should use the employee's actual salary before tax as of 28 February 2020 to calculate the 80% grant available. Again, you should exclude fees, commissions and bonuses from these calculations.

### **I want to top up my employee's pay. Can I claim for the Employer's National Insurance on this top up?**

Sadly, no. The scheme only covers the Employer's National Insurance and Auto-enrolment pension contributions on the mandatory furloughed amounts. Any Employer's National Insurance on voluntary top up payments is not covered.

Similarly, only the minimum 3% auto-enrolment pension contribution is covered by the scheme. If you make additional voluntary employer contributions above this level, they will not be covered.

### **What can staff do whilst they are furloughed?**

H.M. Revenue and Customs are very clear that staff must not undertake work for you whilst on furlough and this covers both the provision of services to you or the generation of revenue.

However, staff can undertake volunteer work for you or complete training/study courses whilst on furlough, as long as they do not provide services or generate revenue for your organisation.

If you do ask employees to undertake training/study whilst on furlough you must ensure that they are still paid above the National Minimum Wage/National Living Wage for the time spent training even if this is more than the subsidised wage.

### **Does an employee have to accept being put on furlough?**

No, but if they don't you would be entitled to start redundancy proceedings as there is no work.

### **What is the minimum length that I can furlough staff for?**

The minimum length of time that an employee can be furloughed for is three weeks.

You are able to furlough a member of staff for three weeks (or longer if applicable) and then bring them back into work to complete any work that you have for them to do. You can then place them back on furlough at a later date if required.

You cannot however, swap employees in and out of furlough status on a daily or weekly basis.

### **How do I claim these amounts back from H.M. Revenue and Customs?**

In order to make a claim you will need:

- Your PAYE reference number
- The number of employees being furloughed
- The claim period (start and end date)
- Amount being claimed
- Your bank account and sort code
- Your contact details

H.M. Revenue and Customs have confirmed that it will be the employer who calculates the amount of grant to be claimed and that this will then just be processed by H.M. Revenue and Customs.

H.M. Revenue and Customs have retained the right to audit these claims at a later date and so it is important to keep all records/evidence of the claim. H.M. Revenue and Customs are fully aware of scams and likely fraudulent claims so record keeping and supporting evidence are key.

You can submit a claim once every three weeks. The claims should be made in accordance with actual payroll amounts at the point you run the payroll or in advance of an imminent payroll.

Our understanding is that this will be claimed through a separate portal but further details will follow on this.

We are able to help with many aspects of furloughing staff including the provision of the relevant paperwork to notify employees as well as the detailed mechanics of the calculation.

**Please do contact us if you need any help with this at all and keep following our website and social media for all the latest updates.**