



**Revenue Responses to ITI queries**  
**on the COVID-19 Temporary Wage Subsidy Scheme (submitted on 30 March)**  
**3 April 2020**

We welcome the very useful and detailed guidance provided on the Transitional Temporary Wage Subsidy Scheme, so far.

We are seeking some further clarifications on the Scheme, having reviewed the Guidance in the FAQ (v2) and the Guidance on Employer Eligibility and Supporting Proofs.

**Directors:** The FAQ notes that if directors are paid through the payroll and are included in the relevant payroll submissions for an eligible employer, then they are eligible to receive the wage subsidy (assuming the other conditions are met).

But the document frequently refers to Employer PRSI and Class J (a PRSI class applicable to employees). Therefore:

- Can directors who pay Class S PRSI (i.e. directors holding a greater than 50% shareholding directly or indirectly in a company), qualify for the scheme?
- Similarly, can proprietary directors who only pay Class S on their director's fees qualify?
- A proprietary director may have an employment contract with their company as a working director and be paid a salary liable to Class A PRSI. Can the director qualify for the scheme on the basis that their wages are liable to Class A?
- The spouse of a shareholding director who holds shares in the company may hold a genuine employment with the company, can the spouse avail of the scheme?

**Revenue Response:** Section 28 of the "Emergency Measures in the Public Interest (Covid-19) Act 2020" provides that the scheme is open to "specified employees" an employee is defined as "any person in receipt of emoluments". The FAQs state that if directors are paid through the payroll system and are included in the relevant payroll submissions for an eligible employer, then they are eligible to receive the wage subsidy.

The scheme applies to directors on the payroll on 29 February 2020 and for whom the employer made payroll submissions to Revenue, between 1 February 2020 and 15 March 2020, for payments to the Director with pay-dates between 1 Feb 2020 and 29 Feb 2020.

To operate the scheme the payroll must show PRSI Class J9. If any other class is reported no refund will be made. The FAQs also state that PRSI entitlements will not be broken, and employees will get insurable weeks or credited contributions. Revenue will be working with DEASP to reconcile payroll against normal contributions and PRSI classes.

**Self-employed:** In the context of self-employed/sole traders who employ their spouse, are they excluded on the basis that the employment is an “excepted employment” for social insurance purposes?

**Revenue Response:** An eligible employee is someone who their employer cannot afford to fully pay because of the COVID-19 crisis who is being kept on the books of the employer. The employee must be on the payroll on 29 February 2020 and the employer must, between 1 February 2020 and 15 March 2020, have made payroll submissions for payments to the employee to Revenue with pay-dates between 1 Feb 2020 and 29 Feb 2020. There is no age restriction for employees to be eligible and it includes those employees on fulltime, part-time and short-time work arrangements.

**Quarterly Payers:** Businesses which are quarterly payers are excluded from the scheme. Can quarterly payers opt out of the quarterly paying regime to allow them to avail of the scheme? If so, when would the opt out take effect (i.e. must they wait until the end of the first quarter of 2020)?

**Revenue Response:** Still under consideration

**Tax Deduction:** The legislation provides that the employer shall not be entitled to a deduction in respect of any additional amount paid to a specified employee. Does this refer to the temporary wage subsidy not being allowed as a deduction or any top up the employer may make to the employee’s wages? Conversely, is the subsidy a taxable receipt in the hands of the employer? It does not appear to be tax exempt under the current legislation.

**Revenue Response:** In computing the employer’s liability to income tax or corporation tax, as the case may be, the employer shall not be entitled to a deduction in respect of the temporary wage subsidy payment paid to an eligible employee under the scheme. The subsidy is not a taxable receipt in the hands of the employer

**Employer Eligibility Criteria:** Thank you for incorporating many of our suggested examples. We are still receiving many questions on the issue of business eligibility, with a particular focus on cash reserves, such as those outlined below:

- In the case of a group of companies will reserves be looked at on an entity or a group basis? **Revenue Response:** Further guidance will issue regarding the treatment of a group of companies.
- Where an employer has had to cease trading as a result of the COVID-19 virus, does the fact that it has significant cash reserves impact on its eligibility to avail of the scheme?

**Revenue Response:** Revenue published guidance states that an employer that has been hit by a significant decline in business but has strong cash reserves, that are not required to fund debt, will still qualify for the Scheme but the Government would expect the employer to continue to pay a significant proportion of the employees' wages.

- Can an employer use the scheme if they have cash reserves, *"a lot of clients are considering letting people go as they do not want to use up their cash reserves?"*

**Revenue Response:** As above.

- If an employer has built up an amount of reserves, has no income coming in, but is "able" to pay normal wages and outgoings for the short term, can they claim any assistance if they are keeping staff on the payroll? Perhaps they might assign staff to project work etc. which, while useful and maintaining gainful employment, is not immediately income generating.

**Revenue Response:** The Subsidy Scheme is open to employers who self-declare to Revenue that they have experienced significant negative economic disruption due to Covid-19. They should be able to show that they meet the criteria laid out in Revenue's published Guidance on Employer Eligibility and Supporting Proofs - [www.revenue.ie/en/corporate/communications/documents/guidance-on-employer-eligibility-and-supportingproofs.pdf](http://www.revenue.ie/en/corporate/communications/documents/guidance-on-employer-eligibility-and-supportingproofs.pdf). The scheme includes eligible employees on fulltime, part-time and short-time work arrangements. There are no requirements on the work, if any, the employer assigns to employees.

- Client is a group of companies and one company in the group employs the employees of the group (i.e. Group Service Company). This Group Service Company charges the trading companies in the group for the employee cost plus a margin. On the basis that the trading companies' turnover reduces by more than 25%, would it be possible for the Group Service Company to avail of the scheme? This type of structure is common in larger groups.

**Revenue Response:** Further guidance will issue regarding the treatment of a group of companies.

**Suggestion:** We believe it would be beneficial if Revenue could be more definitive in their guidance on cash reserves. For example, does Revenue accept cash reserves of say reserves of 2 or 3-months outgoings? In the past, Revenue guidance on certain reliefs e.g. Business Property Relief had such an indicator of acceptable reserves (in the Revenue Manual). We think this would help businesses to have more certainty on whether or not they qualify for the scheme.

**Revenue response:** Where a business has cash reserves to meet future debts or future liabilities, they can still qualify for the scheme. Where a business has normal cash reserves to meet future expansions and future plans they can still qualify for the scheme. An employer that has been hit by a significant decline in business but has strong cash reserves, that are not required to fund debt, will still qualify for the Scheme but the Government would expect the employer to continue to pay a significant proportion of the employees' wages. Revenue is open to considering other relevant evidence as a reasonable

demonstration of eligibility for the COVID-19 Temporary Wage Subsidy Scheme and, as examples are brought to our attention, we will update our Guidance accordingly

#### **Other Eligibility Queries:**

- Some business departments in a firm may be hugely impacted due to projects being put on hold but others may not be impacted. In such circumstances, can the firm operate the scheme overall or operate it for their individual divisions?

**Revenue Response:** Where a qualifying employer declares that it is significantly impacted by the crisis i.e. that the employer's turnover is likely to decrease by 25% for quarter 2, 2020. The overall impact of the business should be assessed to determine if the turnover is likely to decrease by 25% and that the employer is unable to meet normal wages or normal outputs and any other indicators set out in our guidelines.

- Some businesses may not expect their actual turnover to fall much between now and June. It will accelerate the completion of some work. However, the business turnover for the Summer/Autumn period is likely to be significantly hit as the normal work to be completed then will already be done and it is unlikely the economy will have recovered sufficiently to allow for additional work. Therefore, an employer may be better letting their staff go?

**Revenue Response:** Section 28 of the "Emergency Measures in the Public Interest (Covid-19) Act 2020" provides that where the employer demonstrates to the satisfaction of the Revenue Commissioners that, by reason of Covid-19 and the disruption that is being caused thereby to commerce, there will occur in the period of 14 March 2020 to 30 June 2020 at least a 25 per cent reduction either in the turnover of the employer's business or in customer orders being received by the employer.

- Can a company, totally publicly funded by the HSE, qualify for the scheme? The Revenue guidelines say that the Public Service and the Non-Commercial Semi State Sector are excluded. However, the guidelines are silent on entities totally funded by the State? Also, if it does qualify, as the income was in the main Section 39 grants up to December 2019 (with some new services being invoiced at an agreed rate with the HSE – all invoiced from 1 January 2020) establishing "turnover" being reduced by 25% may be difficult as "turnover" may not adequately describe the receipt of grants. We can do a projection of Q1 versus an estimate of Q2 perhaps?

**Revenue Response:** The eligibility criteria as set out in the legislation is that the business of an employer has been adversely affected by Covid-19 to a significant extent with the result that the employer is unable to pay to the emoluments normally paid to the employee. What is paid out as wages to employees is treated as employee emoluments for PAYE purposes in general and the TWS Scheme, irrespective of how the employer funded the wages, viz. ongoing cash receipts, cash reserves, borrowings, grant aid. Each case has to be looked at on its own merits to see if the eligibility conditions are met. Where the grant funding provided by the HSE is not reduced, the company would not meet the criteria for the scheme.

- Does the company have to establish the 25% reduction in turnover as an overall criteria before any staff are put on the scheme? Some staff will experience reduction in hours but not all staff. This could change.

**Revenue Response:** Yes, Section 28 of the “ Emergency Measures in the Public Interest (Covid-19) Act 2020” provides that where the employer demonstrates to the satisfaction of the Revenue Commissioners that, by reason of Covid-19 and the disruption that is being caused thereby to commerce, there will occur in the period of 14 March 2020 to 30 June 2020 at least a 25 per cent reduction either in the turnover of the employer’s business or in customer orders being received by the employer.

- A PAYE worker who employs a childminder normally, might not be sure if their own job is going to last and may not want to keep spending at normal levels due to concerns about future employment. However, they may not have currently lost income and may be able to keep paying wages. With such valid concerns do they meet the test for assisting payroll costs or do they just lay off their childminder and so the childminder gets support from the DEASP instead? **Revenue Response:** Still under consideration

**Monthly Statement:** Some taxpayers are concerned that because they did not “accept” the monthly statement and/or could not pay the February PREM, they would be excluded from the scheme even though they otherwise met the criteria (e.g. made the payroll submissions for January and February).

- Our understanding is the monthly statement is deemed the statutory return on the 15<sup>th</sup> of the month, regardless of whether the employer interacts with the return to accept or amend it. Therefore, an employer did not have to “accept” the monthly statement to qualify for the scheme. Is our understanding correct?  
**Revenue Response:** Yes, your understanding is correct that the monthly statement is deemed the statutory return on the 15<sup>th</sup> of the month, regardless of whether the employer interacts with the return to accept or amend it. There is no specific requirement that the liability was paid.
- We understand that payment of the February PREM is not a pre-condition of the scheme. But we would welcome certainty on the point.  
**Revenue Response:** That is correct.

**Worked Examples:** Members are still working to understand and apply the calculations and additional worked examples in Revenue would really help. For example:

- The March monthly payments in the FAQ indicates that it is a payment of €203 x 4 weeks, this seems to be the payment under the old Employer Refund Scheme. Would one week not be under the new payment scheme?  
**Revenue Response:** The scheme was introduced on 26<sup>th</sup> March. In recognition that some eligible employers with Monthly payroll may have been Covid-19 from mid-March, Revenue will refund the employer a payment of €812 per eligible employee.
- Going forward, will the gross wage figure in the calculation of the ANWP include the subsidy amount? **Revenue Response:** To calculate the “Average Net Weekly Pay” (ANWP) using the values in the payroll submission for each pay date in January and February 2020:

1. Take the employee's "Gross pay" and from it subtract the "Income Tax Paid", the "USC Paid" and the "Employee PRSI paid".
  2. Total this figure for each pay date in Jan and Feb 2020 and divide this by the number of insurable weeks (capped at 9) for the period.
  3. This gives you the employee's average pay that is to be used for the subsidy amount.
- Phase 2 will be based on actual net amounts paid. What average net will be used? For example, a worker could have a net salary at 0 to some money depending on hours worked?  
**Revenue Response:** The same Average Net Weekly paid described above will be used in Phase 2 for the determination of the wage subsidy refund
  - The application of the scheme to part-time staff.  
**Revenue Response:** There is no age restriction for employees to be eligible and it includes those employees on fulltime, part-time and short-time work arrangements.
  - The use of tax credits and bands against the top up payment.  
**Revenue Response:** Additional payments are liable to Income Tax and USC and subject to deductions under the PAYE system. The employer should use the most up to date Revenue Payroll Notification (RPN). Where an employee is due a refund of Income Tax or USC based on the payroll being processed, this can be paid by the employer and Revenue will refund this to the employer along with the associated wage subsidy.
  - Example of the operation of the caps, and for those who don't qualify (i.e. earning greater than €76,000).
  - Maternity leave: An employee has worked for employer since the start of 2019 Employee was on maternity leave, and State benefits, from September 2019 to end February 2020. She therefore has average payroll earnings of nil for January / February (although was receiving State benefits in the period). Employee worked first two weeks of March and was paid her agreed wages. Employee has had to stay away from work since 13 March because social distancing is not possible while minding children. FAQ states that she may apply directly to DEASP if they did not receive normal pay in January or February. How can employee receive benefits and employer top up wages in such circumstances? Otherwise the employer or employee is getting penalised as a result of maternity.  
**Revenue Response:** Eligible employees are those included on a payroll submission with a pay date in the month of February made by the employer in the period from 1 February 2020 to 15 March 2020, and the employee was on the payroll as of 29 February 2020. If employees are eligible and the employer wishes to retain them on the payroll then the temporary wage subsidy may be applied.

Where an employer does not have work available for an employee due to go on maternity leave, the payment due to the employee will depend on the number of weeks from the employee's last day of employment to their due date. If the due date is within

16 weeks of the last day of employment, the employee must apply for Maternity Benefit. If the due date is more than 16 weeks from the last day of employment, the employee should apply for the Pandemic Unemployment Payment which will be paid for 6 weeks. The employee can then apply for a jobseeker's payment upon the expiry of the 6-week period.

- In the FAQ, where they calculate the average net weekly pay at €283 – the employee would appear to be better off being laid off and applying to DEASP for the €350 per week?

**Revenue Response:** This is a matter for the employer and employees involved.

- Is there any impact on the availability of the subsidy where the employee gets a temporary job elsewhere while temporarily laid off (e.g. restaurant staff getting a short term job in a supermarket)?

**Revenue Response:** If an employee has multiple employments, each or one of the employers can operate the scheme based on 70% of the employee's net weekly earnings for each employment.

- Will the subsidy payments together with any top up payments continue to be considered pensionable pay for the purpose of employee and employer pension contributions or will it just be any top-up element?

**Revenue Response:** Further guidance will be provided on this shortly.

- If an employee is paid on a monthly basis and the employer wants to pay 2 weeks at normal pay and PRSI rates, but wants to avail of the scheme for rest of month (i.e. if business closed on 24 March but business as normal prior to this)?

**Revenue Response:** The Temporary Wage Subsidy scheme operates via the payroll system. There are two options available. Firstly, the employer divides up the payroll into two fortnightly payrolls and submit the first two weeks as normal with a pay frequency of fortnight and a second payroll using the J9 PRSI class, again with a revised pay frequency. The second option involves the employer submitting the entire monthly payroll as a J9 PRSI class. In the first option the employer will be refunded €820 per person included in the second fortnightly payroll, while in the second option of a single monthly payroll the refund will be €812 per person. Examples of calculations are available in 4.7. of the FAQs.

**Employee End of Year Review:** We have had a lot of questions about how Revenue will conduct the year-end review of employees to recoup tax, if required. For example, will all employees have to file a tax return? The fact that BIK is deferred for the moment could add to the tax bill employees will have to pay, notwithstanding this may be recouped over a year or more.

We appreciate the details may need to be worked through by Revenue so further clarity beyond what is in the FAQV2 may not be available at this point. Once the COVID-19 payment period has passed it would be useful if Revenue could issue a Statement to all

affected employees who participated in the scheme, indicating what balance of tax may be outstanding and how it will be collected. This would enhance employee awareness and reduce employee anxiety about what he/she needs to do and how the tax due will be collected. **Revenue Response:** Further guidance will issue regarding the end of year review.

**Tax Treatment of COVID- PUP:** Is the COVID-19 Pandemic Unemployment Payment of €350 taxable also?

**Revenue Response:** The Pandemic Unemployment Payment is paid by the Department of Employment Affairs and Social Protection (DEASP) to employees who have been laid off as a result of the pandemic. The tax treatment applicable to this payment has not yet been finalised. Revenue expect that such determinations will be made shortly and we will update our guidance and information accordingly as soon as possible thereafter

**Employer Publication:** We assume the employer publication requirement may be due to State aid obligations. Perhaps this could be confirmed.

**Revenue Response:** Revenue will publish a list of names and addresses of qualifying employers. This is a fairly standard approach to any type of grant process. Effectively the register will be available on the Revenue website after the scheme has finished. In relation to an employee covered by the subsidy, the employer is obliged to show the amount of the subsidy on the employee's payslip.