

## Finance Act 2020 – Taxation of Coronavirus Support Payments

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The Finance Act 2020 includes provisions (the body of which are in Schedule 16 to the Act) clarifying the tax treatment of payments made by the UK Government to alleviate the effects of COVID-19 on the economy and the workforce. Notably, these provisions govern the tax treatment of payments made under the Coronavirus Job Retention Scheme (CJRS), and the Self-Employment Income Support Scheme (SEISS), under both of which a significant proportion of the UK working population has received payments. The legislation allows for other schemes to be specified as included within the scope of the legislation as necessary. Businesses, employers, individuals and partnerships are included within the scope of the legislation, as are coronavirus grants to swathes of business sectors (e.g. the retail, hospitality and leisure fund). References to coronavirus support payments made in respect of CJRS refer to payments made by the Government to employers, rather than the ‘furlough pay’ that employees receive from their employer.

### What Payments are Included

The payments brought within the scope of the new taxation provisions are those made under CJRS, SEISS, the Coronavirus Statutory Sick Pay Rebate Scheme, any coronavirus business support grant scheme, and any other scheme as specified by the Treasury or relevant coronavirus legislation (together, ‘coronavirus support payments’). Coronavirus support payments are, broadly, to be treated as fully taxable for corporation tax and income tax purposes to the extent that coronavirus support payments are ‘referable to the business’ in question. The rationale for making these payments taxable is straightforward from a policy perspective – the coronavirus support payments serve as substitutes for the income streams of businesses and individuals. It is, therefore, not surprising that they should be subject to the same tax treatment as the corresponding income would have been.

The tax treatment of coronavirus support payments outlined above will apply to all payments made under the coronavirus support schemes, including coronavirus support payments made prior to 21 July 2020 (the date of royal assent to the Finance Act 2020).

However, coronavirus support payments made to charities and amateur sports clubs are outside the charges to income and corporation tax.

The legislation also provides for repayments of coronavirus support payments in cases where it transpires that the recipient of such payment is not entitled to the payment, or ceases to be entitled to such payment. Unusually, repayment takes place by way of up to a 100 percent tax charge in respect of the payment (presumably to avoid the need for a complex repayment system to be implemented). This repayment, if due, would be collected from the payee by way of assessment made by HM Revenue and Customs (HMRC). Consequently, in the case of the CJRS, any repayment would come from the employer (regardless of the fact that the employee is now in possession of part of the sum in question). Should a recipient fail to notify HMRC that they are not entitled to a payment, and such failure is ‘deliberate and concealed’, penalty charges will be applied on a percentage basis.

It is important that clients keep abreast of the latest coronavirus support payments developments – the sands continue to shift and the compliance obligations arising from emergency coronavirus legislation continue to mount.

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## CONTACTS

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