

Wage Subsidy Scheme: Key stages and risks

► Tax Tips Alert April 2020

Following the implementation of the Wage Subsidy Scheme introduced by the Government to support employers and workers adversely affected by COVID-19, the Ministry of Social Development (MSD) has released details of the employers that have claimed the subsidy and the amounts claimed. There is also increasing scrutiny on businesses as to whether the subsidy has been passed onto employees. In addition, MSD has always maintained its intentions to audit businesses that have claimed the wage subsidy, in order to confirm they do in fact qualify. It is important for businesses to consider how they can evidence their eligibility for the wage subsidy and the use of those funds should they be audited.

We have previously summarised the [Wage Subsidy Scheme](#). However, due to the rapidly evolving nature of the situation, the Government has also been evolving the Wage Subsidy Scheme. As such, it may be difficult for businesses to keep track of the changes and ensure that they qualify for the subsidy. The other aspect businesses should consider is how they can demonstrate their eligibility if they are audited by MSD.

We discuss below the key risks that a business may face in relation to an ineligible claim. We also set out the various stages of a claim and specific issues that businesses should be particularly aware of when making, reviewing, or supporting a claim.

What are the risks if a business gets it wrong?

There are a number of issues that businesses should consider if they have already claimed the subsidy, or if they intend to claim. These include:

- Incorrectly applying the various eligibility criteria resulting in a claim being made where a business does not qualify – this can result in a partial or full clawback of funding and also, potentially, significant reputational damage if businesses are seen to be wrongfully taking advantage of government subsidies. For example, determining whether a business meets the 30% decrease of revenue may not be as straightforward for certain businesses including startups, high growth businesses, or businesses with more complex revenue recognition models, or where the situation and rules have changed.
- Misuse of funds once obtained, particularly when the calculation of employees “normal” wages is difficult – examples of this may be for businesses with seasonal or commission-based workers.

This can result in partial or full clawback of the subsidy also. Furthermore, there is an increase of scrutiny on employers as to whether the subsidy has been applied appropriately to employees.

- Transparency with employees or key stakeholders – it is essential for the business to keep an open and transparent line of communication with the relevant parties at all times, so they are fully aware of the situation and have a chance to ask questions. In particular, care needs to be taken to ensure compliance with employer obligations and to provide clarity that the subsidy has been passed on to employees.
- Director duties – claiming a government subsidy is, in a significant proportion of situations, outside of the “normal course of business”. Therefore, there is a risk that directors may be challenged in their decision to claim the subsidy, meaning they should get comfortable that they are doing the right thing in their role as director before making a claim.

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Stage 1 – Considering eligibility and approval requirements

Eligibility

Before making a claim, it is essential for individuals and businesses to get comfortable that they do in fact meet all of the various conditions.

For example:

- Can you demonstrate at least a 30% reduction in revenue has occurred as a result of COVID-19? This can be particularly complex for businesses with more complex revenue recognition processes or where the business is a startup or high growth.
- Can you evidence that you have taken active steps to mitigate the impact of COVID-19, and if so is this enough to support a claim?
- Can you evidence that you have made “best endeavours” to pay at least 80% of the employee’s ordinary salary or wage?

One way businesses can assess their eligibility is via the preparation of 12 week rolling cashflow statements, which are updated weekly. These cashflow statements can be used to evidence the impact of COVID-19 and also that the business has used its best endeavours to pay at least 80% of the employee’s ordinary salary or wage.

Approval requirements

As well as these tests it is essential that the business obtains the relevant authorisations from employees in order to make a claim on their behalf.

Furthermore, is the business comfortable that it has engaged with its key stakeholders with regards to the claim? This is hugely important as the public can access a list of everyone who has claimed the subsidy, meaning if stakeholders find out online rather than from the business, this can lead to a more difficult conversation as compared to a situation where they were fully aware and involved in the decision-making process.

Stage 2 – Submitting an application

Currently, the level of information the MSD requires for a claim is minimal, meaning that in most scenarios this stage is very straightforward. However, individual entries are required for each employee, which can be onerous for larger employers.

PwC has developed a number of methods to automate the population of the application, which can save a significant amount of time and ensure businesses obtain the funds as quickly as possible.

Stage 3 – Evidencing an application

We strongly recommend that a business prepares the relevant documentation and evidence at the time of the claim. This creates support that the business had based the decisions around eligibility on the information available at that point in time. This means that, if there is a subsequent change in focus or interpretation of the rules, the business can evidence they did the right thing at the time of making a claim. Subsequent changes can then be dealt with accordingly, with comfort that the business has always operated and applied the rules in good faith.

Businesses should review the information before the MSD begins its audit. Where no documentation has been maintained at the time of the application, we strongly recommend that this information is collated now to support a future audit whilst there is still plenty of time.

If there is any doubt as to whether a business qualifies, or if there are any gaps in the evidence that can be provided, consider having a third party evaluate the documentation to obtain comfort that the claim is reasonable and advice as to what further information is required to support the claim.

Stage 4 – Ongoing review

Given the speed with which COVID-19, the economy, and rules are all developing, it becomes extremely difficult to predict where businesses will be in a month's time, next week, or even tomorrow.

This means that subsequent claims may be required, claims may later be determined to have been wrongly made (e.g. where a business is subsequently deemed to be an essential service and resumes business as usual) or historic claims may need to be amended.

It is important to keep considering the position and, when an amendment is required, how to deal with this.

In addition to this, there are a number of complexities we have seen when considering the use of subsidy funding once obtained. An example of this is how employers should calculate an employee's "normal" wages, which is particularly difficult for seasonal or commission based employees in industries such as tourism, sales and hospitality.

Furthermore, businesses will need to consider how to account for the subsidy, how the subsidy impacts PAYE and annual leave entitlements and other practical reporting implications.

Stage 5 – Future audit

The MSD is yet to release exactly how they intend to audit businesses that have claimed the subsidy, and what information they will expect to see. However, we would recommend that a business collate relevant information now and assess if any further information is required once further details have been released so they can promptly respond to any requests from the MSD.

Businesses should respond to an audit from MSD in a clear and concise manner, in a way that demonstrates they have considered and met each of the relevant requirements. If there are any areas of subjectivity these should be clearly explained, and the evidence supporting the ultimate decision made by the business included within the response.

For additional comfort, or where there are areas of subjectivity, the business should consider having their response evaluated prior to submission.

How PwC can help

Since the introduction of the Wage Subsidy Scheme, we have supported hundreds of clients and their specific queries as they progress their applications through the stages referred to above. We have built a substantial knowledge base in relation to the diverse range of issues businesses may face and how to deal with these. In addition to this, we have kept an open line of communication with officials right from the start to help businesses get clarity in relation to how the rules should be read/applied.

We have used our experience and developed a framework to help businesses navigate the eligibility criteria and, more importantly, to maintain appropriate

documentation to evidence eligibility. Our Wage Subsidy Scheme support framework includes:

- application templates
- standardised application evaluation methodology
- individual application gap analysis, and
- assistance with resolving identified issues.

We can tailor our assistance based on the size of your business, the level of comfort you require, and the stage of your wage subsidy claim.

If you have any questions, please get in touch with one of the COVID-19 team below or, alternatively, speak to your PwC adviser who has the resources and contacts to assist you.

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