

## COVID-19: Taxation of coronavirus support payments

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The UK government has opened a consultation on draft legislation concerning the taxation of coronavirus business support payments. HMRC want views on the technical effectiveness of the proposed legislation in ensuring that grants covered by the legislation are subject to tax. Such grants include the much-reported [Coronavirus Job Retention Scheme \(“CJRS”\)](#) (as reported by us and the [Self-Employment Income Support Scheme \(“SEISS”\)](#) introduced by the UK Chancellor. The legislation will also apply to: (a) the Small Business Grant Fund, the Retail, Hospitality and Leisure Grant Fund and the Discretionary Grant Fund, (b) other payments made by public authorities to businesses in response to coronavirus and (c) any other coronavirus support scheme covered in regulations made by the Treasury.

Some key points to note from the draft legislation and the accompanying explanatory note:

- The overarching aim of the legislation is to ensure that the coronavirus support payments received by businesses and individual partners of partnerships are taxable income. The legislation confirms that “so much of the coronavirus support payment as is referable to the business will be treated as a receipt of a revenue nature for income tax or corporation tax purposes”. Therefore such payments are taxable like other taxable receipts, subject to rules regarding profits, expenses and available allowances. This position accords with previous HMRC guidance on the taxability of such grants.
- The legislation confirms that a payment under the SEISS to a partnership or LLP that relates specifically to a partner of that firm is retained by an individual partner rather than being distributed amongst the partners is not to be included in the firm’s calculation of profits but the receipt is to be added to the partner’s share and is the taxable income of the individual partner, rather than of the partnership itself. The whole amount will be treated as profits of the tax year 2020-21.
- In respect of grants made under the CJRS, HMRC note that the recipient of the grant is taxed on the employer if the employees are working in a UK taxable business to ensure that any deduction for employee expenses met by the grant is matched by taxation of the grant covering those expenses.
- The legislation also provides HMRC with the power, by raising income tax assessments or requiring the submission of a self assessment return, to recover payments made under the CJRS or the SEISS (a) which the recipients weren’t entitled to or (b) where a CJRS payment

wasn't used to pay employee costs, PAYE, NICs and make pension contributions. In cases of deliberate non-compliance, HMRC can charge a penalty. HMRC also the power to make a company officer jointly and severally liable for the income tax charge regarding a CJRS payment in certain circumstances.

The legislation is intended be effective from royal assent of Finance Bill 2020 and will apply to coronavirus support payments regardless of when paid. The consultation will close on 12 June.

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