Covid-19: limited company directors have limited support

As the details of Chancellor Rishi Sunak's 'unprecedented' package of support for individuals and businesses affected by the coronavirus pandemic emerge, directors of limited companies have found they risk falling between the two key schemes

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This group includes, for example, contractors, consultants and other off payroll workers who provide their services to an organisation via a personal services company (PSC) which is usually set up as a limited company.

Typically they are the director of the PSC and pay themselves a small amount in PAYE salary, drawing the rest as dividends from the company.

They had been hoping for help from the government's self employed income support scheme, offering a taxable grant of up to 80% of an individual's average monthly profit over the last three up to a maximum of £2,500 a month for self employed traders and the members of a partnership who have filed tax returns showing average profits below £50,000 for the previous three years.

However, Jeremy Coker, president of the ATT, pointed out: 'Another group who are not technically self-employed, even if they might think of themselves that way, are individuals who have their own company and have taken their income from the company as a small salary and the rest as dividends.

'Since dividend income is not classed as self-employment income for the purposes of the self-employed income support scheme there will be no additional support and such individuals will get much less than they might have hoped for.'

Directors of limited companies are, in some cases, eligible to make a claim under the coronavirus job retention scheme, which offers employers support for a salary subsidiary reimbursing 80% of furloughed workers wage costs, up to a cap of £2,500 per month.

Kate Palmer, associate director of advisory at Peninsula said: 'The scheme has been put in place to help employers who are unable to provide any work to their employees because of Covid-19 without having to resort to lay off or redundancy.

'The guidance confirms that any UK organisation can access the scheme, including charities and public authorities, but mentions that the public sector is not expected to make use of the scheme if employers are receiving public funding.

'Practical aspects of the scheme have now been explained. Under the new guidance, it is clear that employees can rotate around periods of furlough and work, provided that each period of furlough lasts for a minimum of three weeks.'

On the specific issue of directors of limited companies, Palmer said: ‘Directors can be furloughed provided they meet the definition of who can be furloughed e.g. must be an employee on PAYE and on the payroll on 28 February 2020.

‘Some directors will meet the PAYE criterion, some won’t. They will only get 80% of basic pay though, and they can’t do any work for the business during furlough.’

An HMRC spokesperson confirmed: ‘People who are paid a salary by PAYE can be furloughed for the job retention scheme but dividends are not covered by that or the self employed scheme.’

This means that directors of limited companies would be able to claim 80% of their PAYE payments, but would not be able to work while doing so, and their dividend payments which make up the bulk of their income will not be taken into account.

Joanne Harris, technical commercial manager at SJD Accountancy, calculated that the majority of those operating PSCs paid themselves a monthly PAYE salary of around £719 in the 2019-20 tax year, meaning they would be eligible to around £575 a month in financial support from the government.

IR35 challenge

Andy Chamberlain, director of policy and external affairs at contractors’ trade body IPSE, said: ‘We are certainly disappointed that many of our members and other contractors who operate via a limited company will miss out on the level of support available to other self-employed workers.

‘We are frustrated with the lack of wider support for those who choose, or are sometimes simply required, to work in this way beyond loans and tax deferrals.

‘And I know that many will face a challenging few months with their income regardless of whether they are incorporated or not. IPSE will endeavour to push the government for more support and give you practical advice and guidance where we can.’

However, Chamberlain has drawn one positive message from recent developments, citing the Chancellor’s statement that as a result of government support, the self employed would need to recognise the argument for equal treatment with those covered by PAYE employment status.

Chamberlain said: ‘But what was clear from the Chancellor’s stance, is that had limited company contractors been included in the package, we would have had little arguments left on IR35. The same “quid quo pro” would have applied.

‘But there is, however, one silver lining. The exclusion of contractors from the scheme highlights that we are right in our cause against IR35. How can the government justify treating contractors as “employees for tax purposes” when they’re carved out of support at this critical time?

‘In the same way that the government told us that contractors couldn’t have it both ways, then neither can the Treasury.

‘If ever there was a demonstration of the independence, self-resilience and downright "not-an-employee-ness” of contractors, this is it.’

Report by Pat Sweet