Welcome to the June Technical Newsdesk

Technical Welcomes

01 June 2020

As you might expect, this month's Technical Newsdesk is quite COVID-19 'heavy'. But I make no excuse for that – the pandemic has had a significant impact on our working lives, and we have been busy working with HMRC and other policymakers to try to keep the tax wheels turning and the new grant schemes up and running. Indeed, I would like to focus on the two main grant schemes, the Coronavirus Job Retention Scheme (CJRS) and the Self-employment Income Support Scheme (SEISS), both of which are being administered by HMRC.

In tax, we are used to a lengthy policy making cycle. Since the announcement at Autumn Statement 2016 that the government would hold a single fiscal event in the autumn each year, we have become accustomed to a period of up to two years from the initial consultation on a measure to its implementation in a Finance Act (click/tap here for an illustration and further details). Let's compare that to the CJRS and the SEISS. The CJRS was announced on 20 March 2020, with the government promising to pay up to 80% of a worker's wages, up to a total of £2,500 per worker each month, backdated to 1 March, so that employees would be able to keep their jobs. The CJRS went ‘live' exactly a month later on 20 April 2020, with money received into employers' bank accounts by 28 April 2020. That is some achievement. In the intervening period, the government has announced that the CJRS would be extended until the end of October.

The SEISS was announced on 26 March 2020 and, with some similarities (but also some differences) to the CJRS, the government will provide a grant to the self-employed of up to £2,500 per month for at least three months. The SEISS went 'live' on 13 May, with money expected to be received into individuals' bank accounts by 25 May 2020 (or within six working days of making the claim). So the SEISS has been designed from scratch, and delivered, in less than two months.

Inevitably, when schemes are developed at such a pace there are some hard cut-offs and procedural oddities. Both schemes have strict cut-off dates, mainly to prevent fraudulent claims, and broadly only allow claims to be based on information held by HMRC at the time of the announcement of the schemes. For the CJRS, this means that some annually paid employees, and those recently employed but not paid through RTI before 19 March 2020, will not qualify. For the SEISS, eligibility is based on tax returns submitted on or before 26 March 2020 (with a small window to 23 April for any late 2018/19 tax returns), so the recently self-employed (2019/20 onwards) are one of the casualties of developing these schemes at pace. The claims processes can also be contrasted. Agents can make CJRS claims on behalf of their clients, although the amount of the grant must be calculated by or on behalf of the employer, and can involve some complexity. Only the self-employed individual can make their SEISS claim, but the process is simple and HMRC calculate the amount of the grant based on previously submitted tax returns.

But whatever the pros or cons of each scheme, it cannot be denied that they have delivered much needed financial support to millions of individuals in a remarkably short timeframe, and for that HMRC should be applauded. That might be an unusual sentiment for many people, especially if they themselves, or their clients, fall between the gaps in these two main schemes, or their work normally involves them defending clients from the actions of HMRC. We were, therefore, pleased to see HMRC recognised as winners of the award for the Outstanding contribution to tax in 2019/20, announced at the virtual award ceremony Tolley's Taxation Awards 2020 on 14 May. Equally pleasing was the win by the LITRG Team of the Best specialist team in a public or not for profit organisation category and by Meredith McCammond, a LITRG Technical Officer, as the Best Rising Star in Tax. The Lifetime achievement award also went to Robin Williamson OBE, the former Technical Director of LITRG. Congratulations to all.

Looking ahead, it will be interesting to see HMRC's approach where claims have been made in error. As indicated in my introduction last month, we are used to detailed legislation (which has been through a consultative process), guidance which supplements that legislation, and safeguards for taxpayers. The CJRS and the SEISS both have a short Treasury Direction and a number of pages of guidance, but detail is relatively scant. We know that HMRC will review some of these claims, and we hope they will do so in a sensitive and proportionate way, reflecting the availability of information at the time and the wider circumstances of the claimant.