Welcome to the March Technical Newsdesk

Welcomes

03 March 2021

It’s nearly a year since the Chancellor announced, and HMRC implemented, some of the COVID-19 support schemes such as the Coronavirus Job Retention Scheme (CJRS) and the Self-Employment Income Support Scheme (SEISS). In my introduction to last June’s Technical Newsdesk (www.taxadvisermagazine.com/TN202006), I explained how quickly these schemes had progressed from announcement to implementation, and compared that to the normal policy-making cycle. We also had to quickly get used to two other factors. First, the ‘rules’ of the schemes were largely being set out in HMRC’s guidance, rather than in detailed legislation. Whilst we have a number of Treasury Directions, these are perhaps better described as the framework in which HMRC must deliver the schemes, rather than the minutiae of their operation. Second, and against this unfamiliar backdrop, was the concept of HMRC paying out significant sums of money in accordance with these schemes (well over £65 billion at the time of writing).

Perhaps understandably, we have also seen over recent months a much greater focus on seeking to ensure that these grants are only received by those who really need them. The third SEISS grant required a reasonable belief that there would be a significant reduction in trading profits, and the publishing of employer claims data will inevitably lead to potential CJRS claimants balancing the need for support against public opinion that ‘they can afford it’.

We have also started seeing HMRC undertaking compliance activity in relation to both grants. Whilst it is reassuring that HMRC state they will not be actively looking for innocent errors in their compliance approach (re CJRS), it is inevitable that errors will have been made, or an interpretation taken of the then published guidance, which may or may not have been reasonable at the time.

If you raised an eyebrow at the comment ‘the then published guidance’, I suspect I know why – considering the number of times the guidance has been updated (particularly for CJRS), how on earth do you view ‘the then published guidance’? Fortunately, near the top of each of the CJRS guidance pages on GOV.UK is the statement (containing an embedded link): ‘You can read previous versions of this guidance on The National Archives.’ Click that embedded link and, under the blue heading ‘Archive Timeline’, you will find green boxes of years and ‘instances’. If you want to check the guidance as at 30 July 2020 (for example), click the arrow on the 2020 box, then the date in the blue box which corresponds to (or as closely before) 30 July. You will then be shown the guidance page as it was on GOV.UK on 30 July. We recognise that none of this is easy, and it has been difficult to keep pace with the many changes to published guidance.

In response to queries from members, the Professional Standards and Technical teams have published guidance as to what might constitute an error in a CJRS claim, and what (if any) corrective action is necessary by the employer. It also addresses the position for their agent if their client refuses to take the appropriate steps. The guidance has been reviewed by HMRC, and we are hoping to supplement this guidance with some examples, as well as extending it to SEISS claims (see tinyurl.com/k9kjxokj and tinyurl.com/4aos5vjx).

If you have any comments about our PCRT guidance, or examples you would like to share with us, please do email them to technical@ciot.org.uk or atttechnical@att.org.uk.