

EXPLANATORY MEMORANDUM TO
THE TAXATION OF CORONAVIRUS SUPPORT PAYMENTS REGULATIONS
2021

2021 No. 92

1. Introduction

- 1.1 This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs (HMRC) on behalf of Her Majesty's Treasury and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 This instrument confirms that payments made to self-employed individuals under coronavirus business support grant schemes, and to self-employed individuals who are on low incomes and have been asked to self-isolate under schemes in England, Scotland and Wales, are part of their self-employed income. Similarly, payments made to individuals who are members of a partnership are part of their partnership income, with the exact tax treatment dependent on whether they retain the payment or pass it over to the partnership.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is the United Kingdom.
4.2 The territorial application of this instrument is the United Kingdom.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 Section 106 of, and Schedule 16 to, the Finance Act 2020 provide for the taxation of coronavirus support payments. Section 106(2) defines coronavirus support payments as payments under certain schemes.
6.2 Section 106(3) allows the Treasury to specify further schemes as coronavirus support payments. This instrument specifies three such schemes: the Test and Trace Support Payment Scheme in England; the Scottish Government's Self-Isolation Support

Grant; and the Welsh Government's Self-Isolation Support Payment scheme. Section 106(4) allows regulations to make provision about coronavirus support payments made before (as well as after) the making of the regulations.

- 6.3 Paragraph 3(2) of Schedule 16 provides that payments made to an individual under the self-employment income support scheme are referable to the individual's business, and paragraph 3(5) provides that payments made to a partner of a firm under the self-employment income support scheme that are retained by the partner are not treated as a receipt of the firm. This instrument extends this treatment to the specified schemes and also to coronavirus business support grant schemes.
- 6.4 Paragraph 8(2) excludes payments under certain schemes from being liable to a 100% income tax charge where the recipient of the payment was not entitled to it. This instrument adds the specified schemes to this exclusion.

7. Policy background

What is being done and why?

- 7.1 The United Kingdom government (including through HMRC) and the devolved administrations have launched various schemes in response to coronavirus.
- 7.2 Legislation was introduced in Finance Act 2020 to confirm the tax treatment of the schemes that had been launched at that time. Recognising that further schemes would likely be needed during the response to coronavirus, the legislation contained regulation-making powers to allow the Treasury to specify further schemes to which the new rules would apply.
- 7.3 Three schemes have been launched since Finance Act 2020 received Royal Assent. The Test and Trace Support Payment Scheme opened to claimants in England on 28 September 2020 (following a pilot in Blackburn with Darwen, Pendle and Oldham from 1 September 2020). The Self-Isolation Support Grant opened to claimants in Scotland on 12 October 2020. The Self-Isolation Support Payment opened to claimants in Wales on 23 October 2020.
- 7.4 All three schemes provide £500 payments to low-income individuals who cannot work from home and face losing income due to self-isolating.
- 7.5 The payments are available to employees and the self-employed. This instrument deals with the taxation treatment for self-employed recipients, including partners in a firm.
- 7.6 The general treatment of coronavirus support payments is that they should be taxable income.
- 7.7 This instrument maintains that general treatment and ensures that payments under the specified schemes are treated for tax purposes in a similar fashion to other coronavirus support payments.
- 7.8 Payments under the self-employment income support scheme are made to individuals including those who are partners in a firm. In these cases the legislation provides for the payments to be treated as receipts of the firm, except where the individual retains the payment.
- 7.9 Some coronavirus business support grant schemes, and the specified schemes, also make payments to individuals who may be partners in a firm. This instrument extends this same treatment to these schemes to ensure they are treated similarly.

7.10 Finance Act 2020 also introduced a 100% income tax charge for recipients of coronavirus support payments who are not eligible for those payments, as a mechanism for recovering amounts paid or claimed in error. There are exclusions to this charge for certain schemes: this instrument adds the specified schemes to the exclusions as HMRC will not seek to recover any such amounts.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 There are no changes that are consequential upon other changes.

10. Consultation outcome

10.1 These regulations have been prepared to support the implementation of the three specified schemes. As the schemes are urgent government responses to the coronavirus outbreak, there has been no time to consult on the proposals.

11. Guidance

11.1 The Test and Trace Support Payment Scheme website at <https://www.gov.uk/test-and-trace-support-payment> and the Self-Isolation Support Payment scheme website at <https://gov.wales/self-isolation-support-scheme>, as well as websites where claims are submitted to local authorities in England, Scotland and Wales, state that the payments are taxable. The technical guidance on the taxation of coronavirus support payments is at <https://www.gov.uk/hmrc-internal-manuals/business-income-manual/bim40456> and will be kept under review and updated as required.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 A Tax Information and Impact Note covering this instrument will be published on the website at [https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins#coronavirus-\(covid-19\)](https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins#coronavirus-(covid-19)).

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses.

13.2 No specific action is proposed to minimise regulatory burdens on small business.

13.3 The basis for the final decision on what action to take to assist small businesses is that the legislation does not impose new requirements on small businesses. It was therefore considered that no mitigating action was required.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is to monitor and review it within the context of the wider tax framework.

14.2 These regulations do not include a statutory review clause because of an exemption for taxes and other charges in section 28(3)(a) of the Small Business, Enterprise and Employment Act 2015.

15. Contact

15.1 Daniel Shaw at HMRC Telephone: 0300 051 1123 or email: daniel.shaw@hmrc.gov.uk can be contacted with any queries regarding the instrument.

15.2 Bridget Micklem, Deputy Director Business Profits, Business, Assets and International Policy at HMRC, can confirm that this Explanatory Memorandum meets the required standard.

15.3 The Rt Hon Jesse Norman MP, Financial Secretary to the Treasury, can confirm that this Explanatory Memorandum meets the required standard.