

EMPLOYMENT WAGE SUBSIDY SCHEME

UPDATED GUIDANCE

Introduction

The Employment Wage Subsidy Scheme (“**EWSS**”) replaces the Temporary Wage Subsidy Scheme (“**TWSS**”) from 1 September 2020 and the Irish Revenue Commissioners (“**Irish Revenue**”) have published further updated guidance on 2 September 2020 (the “**Updated Guidance**”) to give a clearer picture on the practicalities, requirements and potential pitfalls for employers and employees alike in availing of the EWSS. This note supplements our initial note on the EWSS, published following the announcement of the July Stimulus Plan which can be found [here](#).

Employer Eligibility

In order to qualify for the EWSS, an employer must possess a valid tax clearance certificate and maintain tax clearance for the duration of the EWSS. In addition, the qualifying employer must show that their business has been significantly disrupted by COVID-19 such that there will be at least a 30% reduction in turnover or customer orders. The reduction in turnover or orders will be based on the following periods:

Period Business Commenced Trading	Relevant Comparative Period
Prior to July 2019	1 July to 31 December 2019
Between 1 July and 1 November 2019	Date of commencement to 31 December 2019
After 1 November 2019	Projected turnover/orders from 1 July 2020 to 31 December 2020

The Updated Guidance places a further obligation on a qualifying employer to review the eligibility criteria at the end of every month, other than July 2020 and March 2021. Where an employer no longer meets the eligibility criteria, they are to take the necessary steps and cease claiming the EWSS from the first day of the following month. If the employer subsequently becomes eligible again, they can reregister and begin claiming the EWSS again from the date of reregistration. Where an employer reregisters for the EWSS, they will not be entitled to backdated payments for the period the employer was not eligible for the EWSS.

Irish Revenue expects that employers will retain evidence of appropriate documentation including copies of projections to demonstrate continued eligibility over the specified period.

Employee Eligibility

The EWSS extends the definition of eligible employees to now include an individual who is on payroll at any time during the operation of the EWSS (1 September 2020 – 31 March 2021).

Eligible employees are those who are in receipt of gross wages between €151.50 and €1,462 per week from an eligible employer during the operation of the EWSS. The subsidy payable to each eligible employee is as follows:

Employee Gross Weekly Wage	Subsidy Payable
Less than €151.50	No subsidy payable
From €151.50 to €202.99	€151.50
From €203 to €1,462	€203
More than €1,462	No subsidy payable

As the TWSS was not available to employees who were not on payroll in February 2020, Irish Revenue has confirmed that subsidy payments under the EWSS can be backdated to 1 July 2020 to cover new entities, seasonal employees and new hires. While these subsidy payments under the EWSS were not paid at the time, a sweepback payment will be made in September 2020 for the July and August 2020 periods.

The Updated Guidance has clarified the position in relation to directors who hold, either directly or indirectly, more than 15% of the share capital of a company (a “**Proprietary Director**”). A Proprietary Director can avail of the EWSS provided that, along with satisfying the other eligibility criteria, the Proprietary Director was paid wages which were reported to Irish Revenue at any stage between 1 July 2019 and 30 June 2020. Where a person is a Proprietary Director of two or more eligible companies, a claim for EWSS can only be submitted in respect of a single company.

Claiming the EWSS

An employer who wishes to avail of the EWSS may register for this scheme through the “Manage Tax Registrations” tab on the employer’s ROS account. In claiming the EWSS, the qualifying employer will pay the employee their normal wages and following the submission of the payroll return, receive a subsidy from Irish Revenue in respect of each eligible employee at the rates provided for above. Once the payment has been processed, a notice will issue to the ROS inbox of the qualifying employer with the subsidy amount paid included.

Irish Revenue has confirmed that all gross payments made to employees under the EWSS should be fully liable to PAYE, USC and PRSI in the normal way, however a reduced rate of employer PRSI of 0.5% will apply for employments eligible for the EWSS. As employer PRSI will have been returned as part of the payroll submission at a higher rate, Irish Revenue on the payroll return due date (14th of the following month) will post the PRSI credit due for that month to the employer’s monthly payroll return. This will reduce the overall payroll taxes balance due and payable by the employer for the relevant month.

Anti-Avoidance Measures

Certain anti-avoidance provisions are included as part of the EWSS with a view to counteracting situations where any gross pay due to an employee is deferred, suspended, increased or decreased with a view to securing the EWSS or situations where an employee is laid off and removed from payroll and replaced with two or more employees in relation for whom the EWSS would be available.

Where Irish Revenue identify such cases, the employer will be treated as having never been eligible for the EWSS and any subsidy payment received would need to be refunded, together with possible interest and penalties.

As was the case with the TWSS, the names and addresses of all employers who receive a wage subsidy payment under the new EWSS will be published on the Irish Revenue website.

Commentary

Under the EWSS, employers in sectors impacted by COVID-19 whose turnover or orders fall by 30% will receive a flat-rate subsidy per week based on the number of qualifying employees on the payroll, including seasonal staff and new employees. Welcome clarity has been provided by Irish Revenue that there is no requirement under the EWSS for an employer to demonstrate an inability to pay wages to its employees. In addition, the payroll process for the EWSS is that gross payments made to employees will be fully liable to PAYE, USC and PRSI in the normal way. This ensures that employees will not continue to accrue a possible year-end tax liability, which was a controversial feature of the TWSS. It is important that businesses assess their operations on a monthly basis to ensure they meet the 30% decline in turnover or orders threshold in order to satisfy the eligibility criteria.

For further guidance please see the Updated Guidance [here](#).

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