

EMPLOYMENT WAGE SUBSIDY SCHEME

Introduction

The Employment Wage Subsidy Scheme (“**EWSS**”) is an economy-wide enterprise support which seeks to focus on business eligibility. The EWSS replaced the Temporary Wage Subsidy Scheme (“**TWSS**”) with effect from 1 September 2020 and, at present, is expected to run until 31 March 2021.

The Irish Revenue Commissioners (“**Irish Revenue**”) have released, and continue to update, guidance in respect of the Scheme with a view to giving a clearer picture on the practicalities, requirements and potential pitfalls for employers and employees alike in availing of the EWSS. The most recent guidance was published by Irish Revenue in December 2020.

Set out below is an overview of the key aspects of the EWSS. Consideration is also given to the Preliminary End of Year Statements issued by Irish Revenue which will be relevant to employees whose employer availed of the TWSS during 2020.

Qualifying Employers

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 employer must show that its business has been significantly disrupted by Covid-19 such that there will be at least a 30% reduction in turnover or customer orders.¹

From 1 January 2021, the period to be reviewed to determine eligibility for the EWSS is 1 January to 30 June 2021 with the comparative period being based on when the business commenced trading, as follows:

Period Business Commenced Trading	Relevant Comparative Period
Prior to January 2019	1 January to 30 June 2021
Between 1 January and 1 May 2019	Date of commencement to 30 June 2019
After 1 May 2019	Projected turnover/customer orders from 1 January 2021/date of commencement to 30 June 2021

Qualifying employers are also required to review the eligibility criteria at the end of every month (other than July 2020 and the final month of the EWSS). Where an employer no longer meets the eligibility criteria, it is 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, it can re-register and begin claiming the EWSS again from the date of re-registration. However, where an employer re-registers for the EWSS, it 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

Eligible employees are those who are in receipt of gross wages between €151.50 and €1,462 per week from a qualifying employer during the operation of the EWSS. Since 20 October 2021, the subsidy payable to each eligible employee has been as follows:

Gross Weekly Wage	Subsidy Payable
Less than €151.50	No subsidy payable
From €151.50 to €202.99	€203
From €203 to €299.99	€250
From €300 to €399.99	€300
From €400 to €1,462	€350
More than €1,462	No subsidy payable

¹

Irish Revenue have confirmed that childcare businesses registered in accordance with section 58C of the Child Care Act, 1991 may come within the remit of the EWSS but that there is no requirement for such businesses to meet the 30% turnover test.

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

Irish Revenue 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 (known as '*proprietary directors*'). 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

Connected parties who were not on payroll and paid at any time between 1 July 2019 and 30 June 2020 continue to be excluded from EWSS. These include brothers, sisters, linear ancestors, linear descendants, aunts, uncles, nieces, nephews of a connected person and their spouse. Connected persons are those connected to a company if they alone or together with their connected parties can exercise or acquire control of more than 50% of the issued share capital or voting rights, the greater part of distributions, or the greater parts of assets distributed on winding up of said company.

Employees employed otherwise than as part of the business such as housekeepers, childminders and gardeners are also excluded from the EWSS.

Claiming the EWSS

An employer who wishes to avail of the EWSS may register for the 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 have 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 (ie 5th date 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. Any amendments or submissions of EWSS payroll after the 5th day of each month will be subject to Irish Revenue review, which will delay the posting of the credit.

Anti-Avoidance Measures

Irish Revenue continue to affirm that employers should only operate the Scheme for *bona fide* commercial reasons. 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 subsidy payment under the EWSS will be published on the Irish Revenue website.

TWSS Payments – Preliminary End of Year Statements

Since 15 January 2021, Irish Revenue have begun to make available Preliminary End of Year Statements to employees through the myAccount portal on its website.² The statement sets out the employee's provisional tax position for 2020 based on information available to Irish Revenue, including the amount of any TWSS payments received by the individual, as reported by their employer.

An employee can finalise his/her tax position for 2020 by completing an income tax return online, which will include declaring any additional income, claiming additional tax credits due etc. Once the return has

been submitted, a Statement of Liability will be issued shortly afterwards, setting out the individual's final income tax and USC position for 2020.

Where an employee has underpaid tax in 2020, any such liability can be fully or partially repaid through the 'Payments/Repayments' facility available on myAccount. In order to alleviate any financial hardship, Irish Revenue will collect any outstanding liability, interest free, by reducing an employee's tax credits over a four-year period commencing in January 2022.

Commentary

The EWSS remains a vital business support for employers in sectors impacted by Covid-19 whose turnover or orders are expected to fall by at least 30%. Qualifying employers who have not registered for the scheme should do so as soon as possible in order to receive a flat-rate subsidy per week based on the number of eligible employees on the payroll, including seasonal staff and new employees. It is important that employers who have registered for the EWSS continue to review and assess their operations on a monthly basis to ensure that they meet the 30% decline in turnover or customer orders in order to satisfy the qualifying criteria. Tax clearance must also be maintained. Where an employer no longer qualifies, it should de-register from the scheme and cease claiming subsidy payments immediately.

Employees whose employer availed of the TWSS during 2020 should review their Preliminary End of Year Statement in order to ascertain if their 2020 tax position is balanced, overpaid or underpaid and take action, as appropriate.

For further information, please contact:

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