

Temporary Wage Subsidy Scheme Eligibility Briefing

- Situation as at 26 June 2020

The Temporary COVID-19 Wage Support Scheme (TWSS) was introduced on March 26 2020 for a period of 12 weeks to provide support to employers who might otherwise have been forced to lay off employees due to the COVID-19 Pandemic.

To qualify for the scheme Employers needed to meet three eligibility criteria:

- The employer's business experiences economic disruption.
- Employer's turnover from 14 March 2020 to 30 June 2020 decreases by at least 25% - or customer orders coming into the business reduce by, at least, this amount for the period.
- The employer is in a situation of 'Inability to pay wage payments and other outgoings fully'.

Almost all businesses in Ireland met the first criteria. As a result, it does not need to be further considered. The second criteria related to Q2 2020. During a webinar on Tuesday 9 June, between Revenue and the Institute of Taxation, Revenue communicated a very clear warning that employers need to carefully consider their situation and be sure that they are eligible before making any claim for support through TWSS.

It is possible too, that the improving economic climate could impact on this matter. If a business has been functioning OK for the last few months – or is now doing so – it may not be reasonably able to claim 'inability to pay'.

The COVID-19 Temporary Wage Subsidy Scheme (TWSS) has proven to be a complicated initiative with a risk of making a claim that might later be judged to be ineligible. Legal firms are best served by accessing professional advice that can be relied upon. Legal Firm proprietors should get advice about eligibility from their accountant and/or tax advisor.

Risks of ineligibility have been highlighted through a number of communications from Revenue. Already referred to above is the communication that Revenue issued on 9 June during a webinar. Another critical communication was issued in an Update on 23 June 2020.

The Update published on 23 June followed the decision to extend TWSS until 31 August. The Update covers a wide range of matters but commences by setting out how participating employers need to review their Q2 2020 income and to ensure that they were eligible / remain eligible to claim TWSS support.

Revenue document in the Update that following a review, if an employer determines that the eligibility criteria were met, they can continue to avail of the scheme for the extension period.

If an employer determines that the eligibility criteria were not met but had reasonable grounds for assuming the criteria would be met, the employer should cease claiming the subsidy. Revenue will not seek to claw-back the subsidy paid to such employers where evidence of the best estimate determination supporting the original application is found to be reasonable.

If there was not a reasonable basis, Revenue say that the subsidy is repayable. Also contained in the Update is news on an Employer Compliance Programme being established to confirm that employers (who accessed the TWSS) properly met eligibility criteria.

Legal firm employers are advised to read the Update that Revenue issued on 23 June and to get advice from their accountant and/or legal adviser any concerns that they have. The Update can be accessed at: <https://www.revenue.ie/en/corporate/press-office/press-releases/2020/pr-230620-revenue-provide-important-information-on-extension-of-twss.aspx>

Legal firm employers should access professional advice on TWSS matters from an accountant and/or tax advisor. They are best placed to guide on this complicated initiative.