

## Introduction

The Government has introduced various measures to provide financial support to businesses affected by the COVID-19 crisis. Set out below is an overview of the principal measures:

### COVID-19 Wage Subsidy Scheme

The Scheme is available to employers whose business activities have been and are being adversely impacted by the COVID-19 pandemic. The aim is to encourage employers to retain staff on the payroll. Some of the staff may be temporarily not working or some may be on reduced hours and or reduced pay. Where the employer meets the conditions set out below an employer may be eligible to receive a subsidy up to 70% of the employees' net pay.

In order to qualify, an employer must satisfy the Revenue Commissioners [initially on a self-declaration basis] that it satisfies the following conditions:

- It is experiencing significant negative economic disruption due to COVID-19.
- It can demonstrate a minimum of 25% decline in turnover or customer orders.
- It is unable to pay normal wages and normal outgoings fully.
- Retain their employees on the payroll.

Relevant employees must have been on the employer's payroll as of 29 February 2020 and for whom a payroll submission has already been made to Revenue in the period from 1 February 2020 to 15 March 2020.

Under the Scheme, an eligible employer will receive a weekly subsidy of up to 70% of an employee's net take home pay subject to a maximum of €410 where the employees average weekly net pay is less than €586 (€38,000 gross) or a maximum of €350 where the average weekly net take home pay is between €586 and €960 (€76,000 gross).

No subsidy will be paid where the previous average weekly net pay exceeds €960 per week. Revenue expect employers who participate in the Scheme to top up the salary of an employee unless the employer is not able to do so. Naturally, if an employee is working fewer hours, an employer could not be reasonably expected to continue to pay the employee as if he or she were working a full week.

Payment to employees under the Scheme is made through the normal payroll process; employers then being reimbursed in respect of the payments by Revenue. Payments made to employees under the Scheme are liable to income tax in the hands of the employee. However, income tax and USC will not be applied to the subsidy payment, the employee being taxable on the subsidy by review with Revenue at the end of the year. Income tax and USC will apply to any top up payments made by an employer. Employee PRSI will not apply to the subsidy or any top up payment made by the employer. The employer's PRSI will not apply to the subsidy and a reduced rate from 11.05% to 0.5% will apply on the top up payment.

Employers must not operate the Scheme for an employee who is making a claim for duplicate State support such as the Pandemic Unemployment Payment.

It is considered that the Scheme is available to employees who have been laid off as a result of COVID-19 on the basis that the purpose of the subsidy is to encourage as many employees to remain on the payroll of their employer.

With that purpose in mind employers need not be concerned that—in declaring an inability to pay wages and outgoings in full—that this will be deemed to be an admission of insolvency. The aim of the legislation is to ensure that, by availing of the Scheme, employers will be able to maintain a future relationship with its employees and avoid an insolvency scenario.

The Revenue Commissioners have provided helpful clarity in their latest guidance notes. Revenue’s position is that the *“declaration by the employer is not a declaration of insolvency. The declaration is simply a declaration which states that, based upon reasonable projections, there will be, as a result of the disruption to business caused or to be caused by the COVID-19 pandemic, a decline of at least 25% in the future turnover of, or customer orders for, the business for the duration of the pandemic and that, as a result, the employer cannot pay normal wages and outgoings fully but nonetheless wants to retain its employees on the payroll.”*

Participation in the Scheme is based on self-assessment principles. A critical factor therefore will be whether an employer has made a correct substantive assessment that it has seen a decline in turnover of 25% or more. Companies may be concerned that if they have cash reserves this will preclude eligibility to participate in the Scheme. The Revenue have indicated that a business which has suffered a qualifying decline in turnover/orders but has strong cash reserves that are not required to fund debt will still qualify under the Scheme, but will be expected to continue to pay a significant proportion of the employees’ wages. Accordingly, participating employers will need to retain appropriate records to be able to demonstrate eligibility for participation.

What is required from employers who sign up for the Scheme is that they make the declarations required in good faith and based on reasonable evidence.

## **COVID-19 Business Loan**

The COVID-19 Business Loan is a Government initiative whereby loans of between €5,000 and €50,000 are available from Microfinance Ireland. The purpose of the initiative is to support small businesses through the current period of uncertainty and to protect job creation and sustainment in Ireland. Eligibility is dependent on proof that a business has been impacted negatively by COVID-19 and has less than 10 employees and an annual turnover of up to €2 million. Eligible businesses must be able to demonstrate that 15% of actual or projected turnover or profit is negatively impacted by COVID-19 and the business is not in a position to obtain finance from Banks and other lenders. For further information see [www.microfinanceireland.ie/loan-packages/COVID19](http://www.microfinanceireland.ie/loan-packages/COVID19).

## **The Credit Guarantee Scheme**

Loans of up to €1 million will be available through the Pillar Banks. Under the Scheme the Government provides an 80% guarantee to the participating Banks. The participating Banks are AIB, Bank of Ireland, and Ulster Bank. Loans of up to €1 million for terms of up to 7 years with a 6-month interest free holiday are available under the Scheme. The Scheme is not available for refinancing nor is it available for property-related activities. Applications can be made through the SBCI website.

## **Banking Initiatives**

Many of the Banks have put in place support mechanisms for SME customers with a view to providing a wide range of credit, cashflow, and supply chain supports. This includes deferrals of up to 3 months on loan repayments.

## Supports Provided by the Revenue Commissioners

The Revenue Commissioners have provided guidance in relation to various aspects of the interface between business and Revenue. The following are the highlights:

- Tax returns: businesses which experience temporary cashflow difficulties should continue to submit their tax returns on time; however, the application of interest on late payments is suspended for January and February for VAT and for both February and March for PAYE.
- Debt enforcement: all debt enforcement activity is suspended until further notice.
- Tax clearance: current tax clearance status will remain in place for all businesses over the coming months.

## Companies Registration Office

The Registrar of Companies has determined that all annual returns due to be filed by companies between now and 30 June 2020 will be deemed to have been filed on time if all elements of the annual return are completed and filed by that date. This will enable businesses and their financial advisors to focus on all pressing and immediate financial challenges. The position will be kept under review and the date of 30 June 2020 may be extended depending on the situation at that time. Companies should consult the CRO website [www.cro.ie](http://www.cro.ie) for more details.

## Enterprise Ireland Support

A €200 million package for Enterprise Ireland supports including a rescue and restructuring Scheme available through Enterprise Ireland for vulnerable but viable businesses that need to restructure or transform their businesses. A grant of €7,200 is also available to Enterprise Ireland clients to enable them to access consultancy support and or undertake immediate finance reviews.

## The Business Support Call Centre

The Department of Business and innovation has established a business support call centre to advise on all the Government supports available to businesses that are affected by COVID-19. The call centre can be contacted at 01 631 2002.

## Further Information

For further information, contact your usual Clark Hill Partner, Kirby Tarrant our Partner in Charge, or anyone of the following:

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The above briefing is for information purposes and does not constitute legal advice. Note that some of the above initiatives require legislative enactment and the conditions as to eligibility may be subject to change.