

ICAS

Evidence to the House of Commons Treasury Committee

Economic Impact of Coronavirus

18 May 2020

About ICAS

1. The Institute of Chartered Accountants of Scotland ('ICAS') is the world's oldest professional body of accountants. We represent over 23,000 members working across the UK and internationally. Our members work in all fields, predominantly across the private and not for profit sectors.
2. This evidence has been compiled by the ICAS Tax Board. The Board, with its five technical Committees, is responsible for putting forward the views of the ICAS tax community.
3. ICAS has a public interest remit, a duty to act not solely for its members but for the wider good. From a public interest perspective, our role is to share insights from ICAS members into the complex issues and decisions involved in tax design, and to highlight operational practicalities.

General comments

4. The ICAS Tax Board welcomes the opportunity to contribute evidence to the second stage of the Treasury Committee inquiry into the Economic Impact of Coronavirus.
5. Our evidence is based on the position at 15 May and does not reflect changes made after this. It reflects feedback from our members on experience with the Job Retention Scheme (JRS) and the Self-employment Income Support Scheme (SEISS); we have, therefore, only addressed inquiry questions related to these schemes.
6. We would like to acknowledge the extensive work undertaken by the UK and Scottish Governments, HMRC, HM Treasury, and everyone involved in developing and implementing the measures introduced to try to ease the economic impact of coronavirus.
7. We would also like to express our appreciation of the time taken by HMRC and Government representatives to consult with and update ICAS staff. We are pleased that our feedback has been taken into account.
8. The delivery of JRS and SEISS by HMRC has been an impressive achievement in a challenging timeframe, particularly against a background of staff absences and the switch to remote working.
9. The main concerns raised by our members relate to practical problems with access (particularly arising from the exclusion of agents from SEISS); the risk arising from scams targeted at the self-employed because of the SEISS process; gaps, or inequalities in coverage; and uncertainty about the exit strategy as the lockdown begins to be eased.

Specific questions: Job Protection Scheme and Self-employment Income Support Scheme

What problems (if any) are individuals facing in claiming support from the Job Protection Scheme and the Self-employment Income Support Scheme?

Problems with the Job Retention Scheme

10. It initially appeared, from Government announcements, that employers would be able to claim for employees who were employed at 28 February. However, it subsequently emerged that eligibility was tied to submission of an RTI return which included the employee.
11. The cut-off date was subsequently changed to 19 March, but this had a limited impact because it only helped a small number of employees paid weekly or with a mid-month pay date – where RTI submissions including the new employees would have been made by 19 March. Most employers run monthly payrolls, so most new employees would not have been included on a submission until the end of March (even though they started with the employer in late February).
12. We understand the significance of the cut-off date in helping to prevent fraudulent applications, but it has left many employees who recently took up a new employment without any support – even though many businesses would have been able to provide other evidence of the employee's start date.
13. Feedback we have received suggests that operationally the system is working reasonably well. The most significant issue raised relates to uploading data. Employers with 100 or more employees on furlough can upload bulk data to make their JRS claims. However, employers with fewer than 100

employees on furlough (or their agents) must input each employee's information manually each time a claim is made (weekly, monthly, fortnightly, as wages are paid). For businesses with numbers close to the 100 employee threshold this makes errors more likely and imposes a significant burden on employers or their agents.

14. ICAS understands from HMRC that the majority of employers have below 10 employees, so we have suggested that the relatively small number of employers with between 50 and 100 employees on furlough should be allowed to use the bulk upload procedure. This would significantly reduce both the administrative burden and the potential for error.

Problems with SEISS

15. The system only opened for claims on 13 May, so our comments primarily relate to problems encountered with the eligibility checker and issues relating to the design of the scheme.
16. The main concern raised by our members is the exclusion of agents from the claims process – unlike JRS where agents can make claims on behalf of clients. This presents significant difficulties for many of the self employed (particularly smaller businesses) who appoint an agent so that they do not have to engage with HMRC or its digital systems.
17. We understand from HMRC that agents were excluded because it would have taken longer to build the system. Given that agents can make JRS claims on behalf of clients it is disappointing and surprising that this was not extended to SEISS. Agents are being placed in a difficult position because many clients want and expect their agent to act for them; some agents will be put under pressure to set up Government Gateway accounts on behalf of clients, in order to make claims. HMRC noted in an update on 15 May that it had already seen evidence of agents using clients' Government Gateway credentials to make claims on their behalf, which triggers fraud alerts and will delay payment.
18. More broadly, excluding agents contradicts HMRC messages that it values the role agents play in supporting the tax system. Agent access should be built into all HMRC processes from the outset – this should be the default position rather than being perceived as a time consuming optional add-on.
19. Agents do have access to the eligibility checker and will be keen to help clients as far as possible. However, the details behind the tracker are not visible, so agents cannot see the basis on which the checker is determining eligibility. HMRC has called on agents to help their clients because HMRC helplines will be busy – but has made it difficult for them to provide that help.
20. Agents are encountering cases where the checker is producing incorrect results. In some cases, the client apparently meets all the criteria, but the checker says they are ineligible – the agent cannot see the details so cannot explain this to the client and will advise them to request a review. Some unrepresented taxpayers who are told by the checker that they are ineligible may give up – even though they are in fact entitled to a payment. It appears that at least some of these problems have arisen because the checker went live before HMRC had uploaded data for everyone (particularly where late returns were filed). Some individuals who were originally told they were ineligible have had their eligibility confirmed when they try again.
21. Conversely, in other cases the checker is confirming eligibility incorrectly – for example, the checker is not picking up cessation dates and does not include some questions, the answers to which are essential for making an accurate decision on eligibility. This could be particularly unfortunate for unrepresented taxpayers who assume they will receive a payment and plan accordingly – only to find when they make the claim that they are not entitled to anything.
22. It is important, particularly as the checker is not always producing accurate results, that HMRC publicises the process for obtaining a review of checker decisions and ensures this operates smoothly so that payments are not delayed. There also needs to be more clarity about the process for appealing against a rejection once a claim is made - and for appealing against the amount of the payment made by HMRC. We understand that agents can be involved in these processes; this is essential because in many cases it is the agent who will hold all the relevant information.
23. The SEISS guidance does not currently cover several technical issues which affect the calculations required to determine eligibility and/or the amount of the payment. We have reported these to HMRC and expect that the guidance will be clarified as soon as possible.

Is the Government doing enough to ensure that businesses and individuals are claiming appropriately and that fraudulent claims are detected?

24. It is inevitable that there will be attempts to make fraudulent claims, particularly in view of the speed with which the JRS and SEISS schemes have been put in place and the need to ensure that it is not made too difficult for those entitled to payments to claim.

JRS

25. The restriction of claims to employees who were included in an RTI submission to HMRC by 19 March (the day before the JRS scheme was announced) and the use of authentication credentials in the online application system do restrict some opportunities for fraud. However, they would not prevent all inappropriate claims: for example, there have been reports of employers claiming for employees who are furloughed but then asked to continue working - this problem was mentioned by Jim Harra, Permanent Secretary of HMRC in his evidence to the Treasury Committee in April.
26. A great deal of reliance seems to be being placed on employers acting responsibly and complying with the rules – with HMRC checks only taking place further down the line, by which time it may be too late to recover money inappropriately claimed. Jim Harra, in his evidence to the committee, also referred to an online ‘hotline’ for employees to report abuse, but we question how effective this is likely to be. It appears to be the existing [HMRC fraud reporting service](#) which has not been widely publicised, is not easy to use and is likely to deter employees from making a report; they may also be reluctant to report if they fear that it could lead to them losing their job or not being paid.

SEISS

27. HMRC is using data it largely already held before the scheme was announced, to identify those it believes are entitled to claim, which reduces the opportunities for fraudulent claims. A short window was allowed for the late filing of some 2018/19 returns but HMRC will be able to examine these carefully.
28. However, we have significant concerns that the SEISS claims process and the way HMRC has chosen to communicate with the self employed, may put individuals at serious risk from fraudsters.
29. Initial HMRC contact with the self employed is by text or email (or by post only if HMRC does not hold other contact details). Fraudsters are targeting individuals with scam texts and emails. It may be very difficult for those who are expecting contact from HMRC to determine whether the text or email is legitimate or not.
30. Many individuals who use an agent will not have a Government Gateway account but will need to set one up to claim SEISS because their agent will not be able to claim on their behalf. This leaves those unfamiliar with official websites and uncomfortable interacting digitally with HMRC, at risk of inadvertently being directed to websites set up by fraudsters.
31. Agents are trying to help their clients to avoid scams, but this has been made difficult due to their exclusion from the process.
32. There also appears to be a risk that anyone with access to a self employed individual’s UTR and NINO could potentially use the checker to provide their own email address to HMRC (to which the invitation to make the SEISS claim will be sent); it isn’t clear whether this could ultimately result in the payment being diverted away from the correct recipient. There have already been reports of individuals being asked for UTRs in scam text messages.

Where has Government support been too generous and where has it not been generous enough?

33. Concerns have been expressed to us about differences between SEISS and JRS which give rise to perceived inequitable treatment.
34. The owner/director of a small incorporated business will not be entitled to SEISS. They can furlough themselves under the JRS scheme and receive 80% of their salary. However, one of the main conditions for JRS requires that no work is undertaken (other than directors’ statutory duties).

35. There is considerable confusion about the meaning of directors' duties and exactly what work might be permitted – further HMRC clarification would be useful. However, a self employed individual running a similar small – but unincorporated – business would be able to continue to work and to try to keep the business going, whilst claiming SEISS.
36. A further issue for owner managers of small incorporated businesses is that they are often remunerated via a small salary – other profits being paid out as dividends. SEISS will not be available and the payment under JRS will, at best, be limited. In cases where the director's salary is paid annually, nothing will be due under JRS if the annual RTI submission was not made by 19 March.
37. SEISS is only available to those with trading profits of no more than £50,000 per year. If the threshold is exceeded nothing is available to the self employed. By contrast, under JRS those earning more than £50,000 would be eligible for the maximum JRS payment of £2,500 per month.

How successful has the Government been in plugging the gaps in the schemes?

38. As outlined in paragraphs 10 to 12 many employees who changed jobs at the end of February fell into a gap in JRS. The change in the cut-off date for JRS will only have helped a small number of these.

What gaps in coverage still remain and are changes required to increase their effectiveness?

39. We have received feedback about problems facing seasonal businesses in the tourism sector – particularly those in the Highlands and Islands. These may have been shut or operating at minimal levels (with no, or very few, staff) for the winter months and would have been preparing to open or scale up activities for the summer at about the time they were forced to shut down.
40. The support for employees available via the JRS is based on an expectation of continuous employment (including part time and zero hour contracts), rather than a seasonal pattern of 7-8 months working with 4-5 months off. Seasonal workers may be entitled to nothing – or to very little.
41. For the self employed, there is unlikely to be a busy 'holiday' season in 2020: these businesses will not restart in any meaningful way until the 2021 season. SEISS is currently scheduled to cover three months which will probably be insufficient to keep some seasonal businesses going.
42. There are concerns that areas with a fragile rural economy, heavily dependent on seasonal income from tourism, will be hard hit; they may be able to manage when employees/business owners have benefits in winter and earnings in summer – but will be less sustainable if they have to survive on benefits for the entire year.
43. Other gaps in coverage which have been raised with us include:
 - Self employed businesses set up after 5 April 2019 do not qualify for SEISS.
 - An individual may have continued in employment whilst building up a new business; they will therefore have a mixture of employment and self employment income and some will fail the 50% test for SEISS. A possible solution might be to permit an SEISS payment but restrict the amount where self employment provides only part of an individual's income.
 - Businesses which started trading during 2016-17 or 2018-19 are likely to receive less than they might have expected, as the commencement date is ignored for SEISS. Where a business only traded for 6 months in its first year the profits will effectively be averaged over a year, reducing the payment under SEISS. A similar issue arises where someone has been forced to suspend trading during one of the years under review, for example, due to illness or injury; it would be fairer in such circumstances to exclude the months where no trading could be carried out, when calculating average profits.

How should the Government prioritise which continuing sectors and groups to support as time goes on and ongoing support is needed?

44. We welcome the extension of the scheme in its current form until the end of July and in a revised form until October. This avoids a cliff edge for many businesses which will be unable to return to anything like 'business as usual' by July.

45. We would expect the Government to prioritise ongoing JRS support for businesses in the sectors most affected by ongoing social distancing, for example, the hospitality and tourism sectors (including the seasonal businesses noted in paragraphs 39 to 42).
46. Inevitably, not all businesses will survive. However, we believe viable businesses would be more likely to survive if the JRS rules were amended so that employees could carry out some work for their employer. The Government has indicated that from August onwards this will be permitted – with employers paying a proportion of employees' salaries, so that they continue to receive 80% of their pay. We await the details, but in principle we support this approach.
47. In view of the extension of the JRS, we assume that the Government does not intend there to be a cliff edge for SEISS either and that some support will be available after the end of June. As with JRS we believe that ongoing support should be targeted primarily at sectors most affected by ongoing social distancing requirements. It is important that the Government makes its plans for SEISS clear as soon as possible, so that business owners can make properly informed decisions.

What actions does the Government need to undertake to pursue to support a successful exit strategy?

48. Once the immediate crisis is over, the UK will be in recession; it isn't clear whether the economy will bounce back quickly, or whether the process will be more prolonged. However, there will be difficult decisions to be made about paying for the support programmes, whilst continuing to fund vital public services. There will be also be pressure to increase funding for the NHS and social care for the elderly.
49. ICAS believes that an important part of a successful exit strategy should be a public discussion exploring the role of tax in supporting public services and contributing to the common good. The Government could facilitate this through greater transparency about the link between raising tax revenues and paying for improved public services.
50. The Chancellor has already hinted at possible NIC increases for the self employed (who currently pay less than employees) when he commented, "if we all want to benefit from state support, we must all pay in equally in future". This area of the tax system is riddled with distortions. Currently, individuals may prefer to be self-employed rather than employed because of lower NICs and more generous expenses rules. Lower corporate tax rates and lower taxation of dividends incentivise many businesses to incorporate – something highlighted by the JRS and SEISS support schemes. We believe that these distortions need to be addressed, as does the cost of employer NICs (currently a key driver of exploitative practices in the gig economy).
51. The aftermath of the pandemic, with strong public support for the NHS, should present an opportunity for the Government to generate support for tax reform which has previously been difficult to achieve.