



James Cowper Kreston
Coronavirus – Practical advice

Updated as of 25 March 2020

Contents

<u>Extension to accounts filing deadlines</u>	Page 3
<u>Coronavirus Job Retention Scheme</u>	Page 4
<u>Suspension of VAT</u>	Page 6
<u>Support for the self-employed</u>	Page 7
<u>Coronavirus Business Interruption Loans Scheme (CBILS)</u>	Page 8
<u>COVID-19 corporate financing facility</u>	Page 11
<u>Time to Pay (“TTP”) Arrangements</u>	Page 12
<u>Other Government measures</u>	Page 13
<u>Financial Forecasting</u>	Page 14
<u>Finance Options</u>	Page 15
<u>Business Protection Measures</u>	Page 16
<u>Business Restructuring and Insolvency (“BRI”) team update</u>	Page 20
<u>Insolvency</u>	Page 22
<u>Contact us</u>	Page 23

Extension to accounts filing deadlines

A joint initiative between the government and Companies House means that businesses will from today (25 March) be able to apply for an additional 3 months to file accounts.

The move is designed to help companies avoid penalties as they deal with the impact of COVID-19.

- As part of the agreed measures, those citing issues around COVID-19 will be automatically and immediately granted an extension
- Applications can be made through a fast-tracked online system which will take just 15 minutes to complete
- Extensions must be applied for before the filing deadline <https://www.gov.uk/guidance/apply-for-more-time-to-file-your-companys-accounts>

Further details of the announcement can be found at <https://www.gov.uk/government/news/companies-to-receive-3-month-extension-period-to-file-accounts-during-covid-19>

Coronavirus Job Retention Scheme

Under the Coronavirus Job Retention Scheme, all UK employers will be able to access support to continue paying part of their employees' salary for those employees that would otherwise have been laid off during this crisis.

Eligibility

All UK businesses are eligible.

How to access the scheme

You will need to:

- designate affected employees as 'furloughed workers,' and notify your employees of this change - changing the status of employees remains subject to existing employment law and, depending on the employment contract, may be subject to negotiation.
- submit information to HMRC about the employees that have been furloughed and their earnings through a new online portal (HMRC will set out further details on the information required).

HMRC will reimburse 80% of furloughed workers wage costs, up to a cap of £2,500 per month. At this stage it is not clear whether the maximum HMRC will pay is £2,500 per month or £2,000 (i.e. 80% of £2,500). HMRC are working urgently to set up a system for reimbursement. Existing systems are not set up to facilitate payments to employers.

Coronavirus Job Retention Scheme (cont.)

Do I actually have to “mothball” the staff to apply or can they continue to work part-time?

- As currently drafted it appears that the employees cannot work part-time.

Do I have to pay the additional 20%?

- The guidance to employees says that “your employer may choose to pay the difference between this payment (£2,500) and your salary, **but does not have to**”.
- However the guidance to businesses’ says that “changing the status of employees (to furloughed workers) remains subject to existing employment law and, depending on the employment contract, may be subject to negotiation.” This implies that an employer cannot impose this change and some form of consultation although in practice employees most employees will accept a 20% reduction.

What about Employer’s National Insurance?

- Wages paid to employees will continue to be subject to normal deductions for PAYE. The guidance is silent on Employer’s National Insurance (currently payable at 13.8% above the first £719 of monthly earnings) and therefore it is assumed that businesses still have to pay it on the full amount (subject to Time to Pay Arrangements). Therefore this will still represent a cost to the business of retaining staff.

When will I get the cash?

- We understand the scheme will be backdated to 1 March 2020 and will be open before the end of April. It will cover employees who are in employment on 28 February and will be in place for at least three months. As a result, businesses will still need to consider their cash-flow if wages are to continue to be paid prior to the scheme becoming operational.

The UK government announced on the 20th March that VAT return payments are suspended for all registered businesses until the end of June 2020

- Businesses on quarterly VAT returns who are due to pay their February 2020 return by 7 April or their March 2020 return by 7 May or their April 2020 return by 7 June do not need to pay. If a business submits monthly returns and the February, March or April 2020 return is a payment, again no payment has to be made
- This deferral applies also to those businesses who make monthly Payments on Account
- There is no need to contact HMRC to request this deferral, as it a blanket policy
- The unpaid VAT from this quarterly deferral will need to be paid to HMRC no later than the end of the financial year, i.e. by March 2021
- If businesses pay VAT by direct debit, they should cancel the authorisation as once VAT is paid to HMRC they cannot repay it
- Although it was not specifically mentioned by the Chancellor, the non-payment of VAT will not count as a default.

Income Tax

- For Income Tax Self-Assessment, payments on account due on the 31 July 2020 will be deferred until the 31 January 2021.
- This will be automatic and no deferral application is required. No penalties or interest for late payment will be charged during the deferral period.
- The scaled up Time to Pay Arrangements are also potentially available Income Tax.

I am a company director in receipt of dividends – does the deferral apply?

- At this stage it appears the deferral of payments on account only extends to the self-employed and therefore this will not apply to company directors who remunerate themselves via dividends. Nevertheless, a claim to reduce payments on account may still be appropriate and a Time to Pay Arrangement could be considered.

I am a landlord in receipt of property rental income – does the deferral apply?

- At this stage it appears the deferral of payments on account does not extend to individuals who received rental income. Nevertheless, a claim to reduce payments on account may still be appropriate and a Time to Pay Arrangement could be considered.

Coronavirus Business Interruption Loans Scheme

KEY FEATURES

Up to £5m facility

The maximum value of a facility provided under the scheme will be £5m, available on repayment terms of up to six years.

80% guarantee

The scheme provides the lender with a government-backed, partial guarantee (80%) against the outstanding facility balance, subject to an overall cap per lender.

No guarantee fee for SMEs to access the scheme

No fee for smaller businesses. Lenders will pay a fee to access the scheme.

Interest and fees paid by Government for 12 months

The Government will make a Business Interruption Payment to cover the first 12 months of interest payments and any lender-levied fees, so smaller businesses will benefit from no upfront costs and lower initial repayments.

Finance terms

Finance terms are up to six years for term loans and asset finance facilities. For overdrafts and invoice finance facilities, terms will be up to three years.

Security

At the discretion of the lender, the scheme may be used for unsecured lending for facilities of £250,000 and under. For facilities above £250,000, the lender must establish a lack or absence of security prior to businesses using CBILS. If the lender can offer finance on normal commercial terms without the need to make use of the scheme, they will do so.

The borrower always remains 100% liable for the debt.

Coronavirus Business Interruption Loans Scheme (cont.)

Am I eligible for the Scheme?

Smaller businesses from all sectors can apply for the full amount of the facility. To be eligible for a facility under CBILS, an SME must:

- Be UK-based in its business activity, with annual turnover of no more than £45m
- Have a borrowing proposal which, were it not for the current pandemic, would be considered viable by the lender, and for which the lender believes the provision of finance will enable the business to trade out of any short-to-medium term difficulty.

Please note: If the lender can offer finance on normal commercial terms without the need to make use of the scheme, they will do so.

How do I access the Scheme?

CBILS is available through the British Business Bank's 40+ accredited lenders, which are listed on the British Business Bank website.

In the first instance, businesses should approach their own provider – ideally via the lender's website. They may also consider approaching other lenders if they are unable to access the finance they need alternatively should you require our assistance, in the first instance, please email: AMataczynski@jamescowper.co.uk

Decision-making on whether you are eligible for CBILS is fully delegated to the 40+ accredited CBILS lenders. These lenders range from high-street banks, to challenger banks, asset-based lenders and smaller specialist local lenders.

Am I eligible for finance under CBILS?

The scheme is designed to support smaller businesses (SMEs) who don't meet a lender's normal lending requirements for a fully commercial loan or other facility, but who are considered viable in the longer-term.

To be eligible for a facility under CIBLS, your business must:

- Be UK based in its business activity with annual turnover or no more than £45m
- Have a borrowing proposal which, were it not for the COVID-19 pandemic, would be considered viable by the lender, and for which the lender believes the provision of finance will enable your business to trade out of any short-to-medium term difficulty
- Smaller businesses from any sector can apply for the full amount of the facility

Coronavirus Business Interruption Loans Scheme (cont.)

Some Accredited lenders



For further assistance or information regarding CBILS please contact your usual James Cowper Kreston contact or email AMataczynski@jamescowper.co.uk who will direct your enquiry to the relevant member of our Corporate Finance team .

COVID-19 corporate financing facility

- To support larger firms, the Bank of England has announced a new COVID-19 Corporate Financing Facility to provide a quick and cost-effective way to raise working capital via the purchase of short-term debt.
- This will support companies which are fundamentally strong, but have been affected by a short-term funding squeeze, enabling them to continue financing their short-term liabilities. It will also support corporate finance markets overall and ease the supply of credit to all firms.
- The Government will very soon be announcing further information on this facility.

Time to Pay (“TTP”) Arrangements

HMRC now has up to 2,000 staff available on a phone helpline to assist businesses or the self-employed who are concerned about meeting their tax liabilities due to coronavirus.

These staff are available to discuss your specific circumstances to explore:

- allowing you to defer payment of VAT, PAYE, NIC and other taxes under a TTP Arrangement
- suspending debt collection proceedings
- cancelling penalties and interest where you have administrative difficulties contacting or paying HMRC immediately

Our specialists are available to assist you in putting such measures in place. Some practical advice:

- The timing of the request to HMRC should ideally be once a tax liability has been established but before it falls due for payment.
- At this stage the default response from HMRC to cash flow problems arising from coronavirus appears to be to allow two months deferral of tax payments due, specifically we have seen this for VAT.
- HMRC would prefer an upfront payment, as part of a TTP Arrangement, but seemingly understand if this is not possible or desired by the taxpayer.
- If a two month deferral is granted, HMRC will contact the business after one month to ask either for full payment in one month's time or a payment plan which commences one month later. Further deferral may be possible depending on specific circumstances.
- If the business has a direct debit arrangement for tax payments with HMRC, it should be cancelled (after the deferral is agreed) as HMRC are unable to refund payments received.

Further information can be found at: <https://www.gov.uk/difficulties-paying-hmrc> and the HMRC Coronavirus helpline number is 0800 015 9559.

Business Rates Holidays and cash grants

- No Business Rates are payable for the 2020-2021 tax year for any business in the retail, hospitality or leisure sectors.
- In those sectors, if your rateable value is between £15K and £51k, you'll also receive a cash grant of up to £25,000 per property.
- Any business which gets small business rates relief, including those in the retail, hospitality or leisure sectors, will receive a cash grant of £10,000 (increased from £3,000 announced in the 11 March Budget).
- The rates holiday and cash grants will be administered by local authorities and should be delivered automatically, without businesses needing to claim.

Statutory Sick Pay

- If you're a director of a limited company with less than 250 employees, you can pay yourself two weeks of SSP if you need to self-isolate subject to meeting the minimum payroll requirement for SSP.
- The government will refund £94 per week, maximum £188, to your company.
- It will also refund SSP for staff of businesses with less than 250 employees for up to two weeks.

Mortgage and rent holiday

- Mortgage borrowers can apply for a three-month payment holiday. Both residential and buy-to-let mortgages are eligible. Borrowers will still owe the amounts that they don't pay as a result of the payment holiday and interest will continue to be charged.
- Tenants can apply for a three-month payment holiday from their landlord. No one can be evicted from their home or have their home repossessed over the next three months.

What urgent financial matters should I attend to now?

- Revising cash flow forecasts
- Revising budgets

If you need help with this we have a highly skilled team that can assist you. Please ask your normal contact for assistance.

What assumptions should I make when revising financial forecasts?

- This will largely depend on which sector you are in and how badly affected that sector is impacted. Remember it not just your clients to think about but also who are their clients
- As a general rule you should be mindful that customers/ clients may pay late or not at all
- Following the announcement of the Coronavirus Job Retention Scheme on Friday 20 March businesses may now need to make difficult choices between, for example, redundancies, furloughed staff and temporary pay cuts

Where can I get finance?

- Your existing finance providers may be able to extend further lines of credit
- It is unlikely that a new financier will want to extend additional credit to businesses at this time however equity funds will still want to deploy money into the right sectors – Please talk to our Corporate Finance team if this might apply to you
- It also may be possible to refinance specific assets such as plant and equipment
- If you are considering injecting additional personal funding into your business please talk to our tax team about efficient ways to do so

What measures can I take to protect my business?

- Continue to communicate with customers and clients - try to understand their plans during this difficult time
- Let customers / clients know how they can contact you
- Review major items of expenditure and ask whether expenditure is necessary at all or could be delayed
- If you are considering staff rationalisation please take advice as the cost of getting this wrong can be considerable and is normally avoidable by following proper procedure.
- Consider whether capital expenditure should be put on hold
- Many firms are looking at recruitment freezes or asking staff to reduce hours (this was done successfully in the 2008/9 financial crisis)

Business Protection Measures (cont.)

Will insurance help me?

- Business interruption cover may help in certain circumstances
- Discuss with your insurers whether you can make a claim
- Credit insurance may pay if you suffer a bad debt but this will usually require a customer / client to enter into a formal insolvency procedure.
- It is unlikely that you will now be able to obtain additional insurance cover for business interruption or credit insurance

Credit to your clients

- Be careful about the level of credit that you extend to customers / clients and if at all possible either get payment in advance or on delivery
- You may seek personal guarantees from the directors of customer / client companies but be aware that if these are freely given it may be because the director has little personal assets to lose
- Review the basis on which you supply goods to make sure that any retention of title clause is valid and that you are following the right steps in terms of documentation and procedure so that in the event that you need to rely on the terms that you can prove that the terms were communicated to the customer/client in advance of the supply and that you can identify the goods.
- In the event that you need to rely of a retention of title clause you must alert the insolvency practitioner dealing with the customer at the earliest opportunity and insist on identifying the goods that you supplied. If you need help in this please contact the business recovery and insolvency team at James Cowper Kreston

If my business fails how can I protect my family?

- If you operate through a limited company if your company fails you will not be asked to put in additional funds unless you have either signed a personal guarantee or your conduct as a director has fallen short of what can reasonably be expected.
- It is not illegal to be a director of an insolvent company but the directors do open themselves up to potential pitfalls if they do not manage the risk appropriately.
- Whilst trading an insolvent entity the directors' focus should change from that of creating shareholder wealth to protecting the position for creditors.
- The main areas of risk that directors face on the failure of an entity are claims for:
 - wrongful trading;
 - Preferences;
 - transactions at an undervalue;
 - fraudulent trading; and
 - misfeasance.

Taking advice from an Insolvency Practitioner (we have four available to you) can protect you from the perils of claims against directors (an possible disqualification) but you must take this advice early and follow the advice given.

Business Restructuring and Insolvency (“BRI”) team update

UK insolvency numbers likely to rise

The Insolvency Service (the Government’s department) is anticipating a rise in the number of UK insolvencies this year and expects to be called on by Government to look at ensuring that the UK’s insolvency and rescue processes are still fit for purpose in these unprecedented times.

The Government is considering what emergency legislation could be introduced to help struggling businesses and has asked insolvency practitioners to give their views. In the meantime insolvency practitioners have been asked to be as flexible as possible when dealing with cases under these extreme circumstances.

Help to those in IVAs and CVAs paying monthly contributions

The Insolvency Service has indicated that those in Individual Voluntary Arrangements (IVA) or Company Voluntary Arrangements (CVA) IVAs and CVAs may experience difficulty in meeting their financial commitments, and where possible would ask that Insolvency Practitioners give their forbearance.

Insolvency Practitioners often write very flexible proposals which allow for the discretion of the supervisor not to fail arrangements where there are genuine and temporary reasons for debtors being unable to pay monthly contributions. However, frequently creditors modify proposals to restrict such discretion and, absent emergency legislation, insolvency practitioners are likely to have to go back to creditors vary such proposals which is both costly and time consuming. Our team will be contacting the Insolvency Service to suggest that this discretion is given to Insolvency Practitioners, by emergency legislation if necessary.

BRI team update (cont.)

Creditor engagement

The Insolvency Service have also asked Insolvency Practitioners to consider the best way to engage with creditors. Thankfully the legalisation for the large part has moved away from physical creditors' meetings and therefore we are now all very familiar with running virtual meetings and decisions by correspondence so we do not see radical change in this regard.

Help with the cost of redundancy

The Insolvency Service has reminded Insolvency Practitioners that businesses who are struggling to meet redundancy payments that the Redundancy Payments Service (RPS) operates a Financial Difficulty (FD) scheme. This was set up to provide assistance to employers in making statutory redundancy payments while at the same time avoiding additional job losses if the employer became insolvent.

The information on the website is very limited about the FD Scheme and reproduced below:

- If you have financial difficulties
- If your business would become insolvent as a result of making the statutory redundancy payments, the Insolvency Service's Redundancy Payments Service may be able to help.

You'd have to repay any debt as soon as possible - contact the Redundancy Payments Helpline for more information

Redundancy Payments Helpline

Telephone: 0330 331 0020

If you are facing financial difficulties and considering redundancies you may need practical assistance and this is where our Business Recovery and Insolvency team can help you as they have significant experience in the practical in dealing with redundancy situations and the potential cost of getting it wrong is huge.

What is the definition of insolvency?

- There are two tests for insolvency and if either test is met a company can be described as insolvent:
 - The cash flow test - can a company pay its liabilities as they fall due (taking into consideration perspective and contingent liabilities), and
 - The balance sheet test - are the level of a company's liabilities greater than the value of its assets

But do remember per the point above it is not illegal for directors to allow an insolvent company to continue to trade but they may face additional personal risks in doing so which can be mitigated with the right advice.

Please do speak to one of our business restructuring & insolvency team for that advice.

Contact us

If you would like to discuss any of the matters raised in this document, in the first instance please contact:

Sandra Mundy: Tel: 07870 192031, Email: smundy@jamescowper.co.uk

Stuart Williams: Tel:01189 9590261, Email: swilliams@jamescowper.co.uk

Meera Rajah: Tel: 01635 35255, Email: mrajah@jamescowper.co.uk

Alex Nicholson: Tel: 02380 221222, Email: anicholson@jamescowper.co.uk

Or your usual James Cowper Kreston contact