

The Coronavirus Act 2020 Functions of Her Majesty's Revenue and Customs (Self-Employment Income Support Scheme Extension 5) Direction

The Treasury, in exercise of the powers conferred by 76 of the Coronavirus Act 2020, give the following direction:

1. This direction applies to Her Majesty's Revenue and Customs.
2. This direction modifies and extends the effect of the Self-Employment Income Support Scheme (as modified and extended by the Self-Employment Income Support Scheme Extension, the Self-Employment Income Support Scheme Grant Extension 3 and the Self-Employment Income Support Scheme Extension 4) which confers responsibility on Her Majesty's Revenue and Customs for the payment and management of amounts to be paid under that scheme which is set out in the Schedules to the SEISS directions.
3. The SEISS directions continue to have effect but are modified and extended so that the scheme to which they relate takes effect as modified and extended as set out in the Schedule to this direction.
4. This direction has effect for the duration of the scheme.
5. In this direction, "the SEISS directions" mean-
 - (a) the Coronavirus Act 2020 Functions of Her Majesty's Revenue and Customs (Self-Employment Income Support Scheme) Direction given on 30 April 2020 in exercise of the powers conferred by sections 71 and 76 of the Coronavirus Act 2020;
 - (b) the Coronavirus Act 2020 Functions of Her Majesty's Revenue and Customs (Self-Employment Income Support Scheme Extension) Direction given on 1 July 2020 in exercise of those powers;
 - (c) the Coronavirus Act 2020 Functions of Her Majesty's Revenue and Customs (Self-Employment Income Support Scheme Grant Extension 3) Direction given on 21 November 2020 in exercise of those powers; and
 - (d) the Coronavirus Act 2020 Functions of Her Majesty's Revenue and Customs (Self-Employment Income Support Scheme Extension 4) Direction given on 7 April 2021 in exercise of the power conferred by section 76 of the Coronavirus Act 2020.

Signed by Two of the Lords Commissioners of Her Majesty's Treasury



Her Majesty's Treasury

02/07/21

×



Her Majesty's Treasury

05/07/21

SCHEDULE

THE SELF-EMPLOYMENT INCOME SUPPORT SCHEME EXTENSION 5

PART 1

INTRODUCTORY PROVISIONS

Introduction

1. This Schedule modifies and extends the Self-Employment Income Support Scheme (“SEISS”) (as modified and extended by SEISS Extension, SEISS 3 and SEISS 4) and is to be known as the Self-Employment Income Support Scheme Extension 5 (“SEISS 5”).

Purpose of scheme modification and extension

2. The purpose of this modification and extension to SEISS is to provide for payments to be made to persons and relevant persons carrying on a trade the business activity or capacity of which, or demand for which, has been reduced, or cannot be carried on, due to the health, social and economic emergency in the United Kingdom resulting from coronavirus and coronavirus disease in the period beginning on 1 May 2021 and ending on 30 September 2021.

Application of SEISS, SEISS Extension, SEISS 3 and SEISS 4

3. SEISS 5 is a modification and extension of SEISS and accordingly all the provisions of SEISS, SEISS Extension, SEISS 3 and SEISS 4 apply to this extension as they apply in relation to SEISS, SEISS Extension, SEISS 3 and SEISS 4 and payments under SEISS, SEISS Extension, SEISS 3 and SEISS 4 except where the context otherwise provides.

PART 2

SEISS 5 PAYMENTS

Claims for SEISS 5 payment

4.1 Subject to paragraph 4.2, a claim for a payment under SEISS 5 (a “SEISS 5 payment”) must be made in accordance with paragraph 3 of SEISS on or before 30 September 2021.

4.2 Paragraph 3.2 of SEISS does not apply and a claim must be made by a person who is a qualifying person for the purposes of SEISS 4 (see paragraph 4 of SEISS 4).

4.3 Subject to paragraph 4.4, a claim may only be made for a SEISS 5 payment in respect of the period beginning with 1 May 2021 and ending with 30 September 2021 (“the qualifying period”) in relation to a trade-

- (a) the business of which has suffered reduced activity, capacity or demand in the qualifying period from that which could reasonably have been expected but for the adverse effect on the business of coronavirus or coronavirus disease, and

- (b) which the claimant reasonably believes will suffer a significant reduction in trading profits for a relevant basis period from that which would otherwise have reasonably been expected as a result of that reduced activity, capacity or demand.

4.4 A claim cannot be made under paragraph 4.3 in relation to any reduced activity, capacity or demand caused solely because the person is required to quarantine or self-isolate, or care for a person required to quarantine or self-isolate, as a result of travelling to the United Kingdom.

4.5 A claim cannot be amended after 30 September 2021.

4.6 For the purposes of paragraph 4.3, “relevant basis period” means a basis period or basis periods in which the qualifying period falls.

SEISS 5 payment

5.1 Where one of the conditions in paragraph 5.3 is met, the amount of the SEISS 5 payment is the lower of-

- (a) £7,500, and
- (b) $3 \times \left(\frac{TP}{12} \times 80\%\right)$.

5.2 In any other case, the amount of the SEISS 5 payment is the lower of-

- (a) £2,850, and
- (b) $3 \times \left(\frac{TP}{12} \times 30\%\right)$.

5.3 The conditions for the purposes of paragraph 5.1 are-

- (a) the person carried on a trade in the tax year 2019-20 but did not carry on a trade in any of the tax years 2016-17, 2017-18 or 2018-19,
- (b) any trading profits for the tax years 2018-19 and 2019-20 arises solely from the person’s underwriting business, or
- (c) the person meets the financial impact declaration test.

5.4 For the purposes of this paragraph, TP is determined in accordance with paragraph 8.2 of SEISS 4.

5.5 In paragraph 5.3(b), “underwriting business” has the meaning given in section 184(1) of the Finance Act 1993.

Financial Impact Declaration Test

6.1 The financial impact declaration test (the “FID test”) is met if the turnover of the trade in the pandemic period is at least 30% less than the turnover of the trade in the reference period.

6.2 For the purposes of this paragraph-

“pandemic period” means a period of 12 months beginning with a date from 1 April to 6 April 2020;

“reference period” means-

- (a) the tax year 2019-20, or
- (b) the tax year 2018-19 if the person-
 - (i) reasonably believes that tax year more accurately reflects the usual turnover of the trade in a typical 12 month period, and
 - (ii) submitted a tax return for that tax year.

6.3.1 The turnover for the reference period is the turnover of the basis period for that tax year.

6.3.2 Subject to paragraph 6.3.3, the rules in Chapter 15 of Part 2 of ITTOIA 2005 apply to determine turnover for a basis period in the same way as they apply in relation to profits.

6.3.3 Where the basis period for the reference period is longer than 12 months, the turnover for that period must be determined by apportioning the turnover of that basis period on a just and reasonable basis to reflect a period of 12 months ending with the last day of the reference period.

6.4.1 Subject to paragraphs 6.4.2 and 6.4.3, where a person carries on a trade in partnership, the turnover of the trade is the turnover of the partnership.

6.4.2 Where in the reference period a person carries on a trade in partnership and carries on another trade-

- (a) in a different partnership, or
- (b) alone,

the turnover in relation to the partnership for the reference period and the pandemic period is that person’s share of the partnership turnover to be determined in accordance with the person’s share of profit or loss under the relevant partnership’s profit sharing arrangements for the basis period to which the reference period relates.

6.4.3 Where in the pandemic period a person starts to carry on a new trade in partnership and also carries on another trade-

- (a) in a different partnership, or
- (b) alone,

the turnover in relation to the new partnership for the pandemic period is the person’s share of the partnership turnover to be determined in accordance with the person’s share of profit or loss under the relevant partnership’s profit sharing arrangements for the basis period or periods to which the pandemic period relates.

6.5 “Turnover” means, subject to paragraph 6.6, the takings, fees, sales and money earned by the business of the trade calculated in accordance with generally accepted accounting practice or, where an election has been made under s25A of ITTOIA 2005, the cash basis.

6.6 For the purposes of the FID test, turnover does not include any coronavirus support payment.

6.7 In this paragraph-

“coronavirus support payment” has the meaning given by 106(2) of the Finance Act 2020;

“generally accepted accounting practice” has the meaning given in section 997 of ITA 2007;

“profit sharing arrangements” means the rights of partners to share in the profits of the trade and the liabilities of the partners to share in the losses of the trade.

PART 3

GENERAL

Trading profits and relevant income

7.1 For the purposes of SEISS 5, paragraph 10 of SEISS does not apply and amounts of trading profits and relevant income are determined by reference to a person’s tax returns for any relevant tax years as at 2 March 2021.

7.2 Subject to paragraph 8 below, no account will be taken of any amendment made to a tax return for a relevant tax year on or after 3 March 2021 or any contract settlement.

Ceasing to be entitled to SEISS 5 payment

8.1 Subject to paragraph 8.3, where an amendment made on or after 3 March 2021 to a person’s tax return would change the amount of trading profits, relevant income or turnover taken into account for the purposes of SEISS 5, if on the basis of those amounts-

- (a) the person would not meet the profits condition, the person ceases to be entitled to retain any SEISS 5 payment received and it must be returned to HMRC immediately, or
- (b) the amount of the SEISS 5 payment would be lower than the amount received, the person ceases to be entitled to retain the excess amount of SEISS 5 payment received and it must be returned to HMRC immediately.

8.2.1 Subject to paragraph 8.3, paragraph 8.2.2 applies where the turnover amount reported in a person’s tax return for the tax year 2020-21 (or the amount which would be reported if the pandemic period were a 12 month basis period for a tax year) is different to the amount used for the purposes of the FID test.

8.2.2 If on the basis of the reported turnover amount (or the amount that would be reported) the person would not meet the FID test, the person ceases to be entitled to retain the SEISS 5 payment to the extent that the SEISS 5 payment received exceeds the SEISS 5 payment calculated under paragraph 5.2 and that excess must be returned to HMRC immediately.

- 8.3 Paragraphs 8.1, 8.2.1 and 8.2.2 do not apply if-
- (a) the amount of the SEISS 5 payment received was £100 or less, or
 - (b) the amount of the excess to which the person ceases to be entitled is £100 or less.

Loan charge cases for SEISS 5

9. For the purposes of SEISS 5-
- (a) paragraph 9 of SEISS does not apply, and
 - (b) a person is subject to the loan charge if the person is chargeable to income tax on any amount by reason of Schedule 11 or 12 to the Finance (No. 2) Act 2017 (loan charge).

HMRC's accounts

10. Paragraph 12 of SEISS does not apply to SEISS 5 payments.

Interpretation

- 11.1 Terms used in this Schedule have the same meaning as in SEISS, SEISS Extension, SEISS 3 and SEISS 4.
- 11.2 A person who is a relevant person for the purposes of SEISS 4 is a relevant person for the purposes of SEISS 5 (see paragraph 6 of SEISS 4).
- 11.3 For the purposes of SEISS 5-
- “basis period” has the same meaning as in Chapter 15 of Part 2 of ITTOIA 2005;
 - “relevant tax year” has the meaning given in paragraph 4.3 of SEISS 4;
 - “SEISS 4” means the Self-Employment Income Support Scheme Grant Extension 4 set out in the Schedule to the direction given on 7 April 2021 in exercise of the power conferred by section 76 of the Coronavirus Act 2020;
 - “SEISS 5 payment” has the meaning given in paragraph 4.