

Guidance on members' obligations in relation to the reporting of grants claims under the self-employment income support scheme

This guidance has been drawn up to help members comply with their professional obligations under <u>Professional Conduct in Relation to Taxation (PCRT)</u>¹ where they advise clients who have, or may have, made claims under the self-employment income support scheme (SEISS).

Introduction

This guidance is intended to provide assistance in relation to the reporting of SEISS grants; in particular, where you may be in disagreement with your client's intentions. The guidance focuses on the first three SEISS grants, the receipt of which are reportable on the 2020-21 self-assessment tax return.

Whilst this guidance specifically addresses SEISS grant claims, the fundamental principles and requirements set out in PCRT would also apply to other COVID support administered by HMRC or other authorities, such as the CJRS (on which separate guidance has also been prepared²).

Submission of returns

For the avoidance of any doubt, the CIOT consider that SEISS claims fall within the scope of PCRT. We understand that HMRC also considers the standards required under HMRC's Standards for Agents³ to relate to SEISS claims, too.

You should familiarise yourself with the contents of PCRT help sheet A: Submission of tax information and 'tax filings' 4. In particular:

- The taxpayer has primary responsibility to submit correct and complete filings to the best of their knowledge and belief. The final decision as to whether to disclose any issue is that of the client. (paragraph 8)
- A member should act in good faith in dealings with HMRC in accordance with the fundamental principle of integrity. In particular the member should take reasonable care and exercise appropriate professional scepticism when making statements or asserting facts on behalf of a client. (paragraph 12)
- Where acting as a tax agent, a member is not required to audit the figures in the books and records provided or verify information provided by a client or by a third party. However, a member should take care not to be associated with the presentation of facts they know or believe to be incorrect or misleading, nor to assert tax positions in a tax filing which they consider to have no sustainable basis. (paragraph 13)

¹ https://www.att.org.uk/members/professional-standards-ethics/professional-conduct-relation-taxation

² Accessible from https://www.att.org.uk/members/professional-standards-ethics/professional-conduct-relation-taxation

³ <u>https://www.gov.uk/government/publications/hmrc-the-standard-for-agents</u>

⁴ https://www.att.org.uk/sites/default/files/A Tax Filings helpsheet 1 March 2019.pdf

- If a client is unwilling to include in a tax filing the minimum information required by law, the member should follow the guidance in PCRT Help sheet C: Dealing with Errors⁵.

SEISS grants

The eligibility criteria for the SEISS grants changed subtly from grants 1 and 2 (where the criteria were broadly the same) to grant 3 (which incorporated additional criteria to increase the focus of the scheme).

The government guidance in relation to these first three grants has now been archived but can be found here.

Of particular importance for all three grants is that there is no requirement to apply hindsight. Eligibility for the grants was determined at the point at which the claim was made. If the business has in fact not suffered to the extent expected, it is not necessary to revisit the basis on which the claim was made.

Amendments to tax returns do not impact on either eligibility, or the amount of the grant, for the first three SEISS grants. However, they will impact on the fourth and fifth grants (outside the scope of this guidance).

Errors, incorrect claims, and their disclosure

Claims which were fraudulent must be repaid and, if not, the procedures in <u>PCRT help sheet C</u> would apply. Otherwise the following table is intended to provide assistance. It is not possible to provide prescriptive guidance due to the subjective nature of some of the eligibility criteria, and because each client's circumstances are unique. Some of the scenarios may overlap, particularly 2 and 3, and it is necessary to consider the position 'in the round'.

Where a client is unwilling to take corrective action, again the procedures in PCRT help sheet C would apply.

In cases of fraud or where clients refuse to correct innocent errors in relation to claims, members must consider whether they need to make an AML Suspicious Activity Report to the National Crime Agency. Please note that a member's AML obligations are not met by making a report to the Coronavirus fraud helpline.

Further information regarding overclaimed SEISS grants, including penalties applicable, can be found on <u>GOV.UK</u>, in <u>compliance check fact sheet 47</u>, and in <u>compliance check fact sheet 11a</u>.

⁵ https://www.att.org.uk/sites/default/files/C Errors helpsheet 1 March 2019.pdf

 $^{^{6}\,\}underline{\text{https://webarchive.nationalarchives.gov.uk/*/https://www.gov.uk/guidance/claim-a-grant-through-the-coronavirus-covid-19-self-employment-income-support-scheme}$

Ref	Scenario	Necessary action	Client refuses to take the necessary action	Other considerations
1	Client claimed the	The grant must be repaid to HMRC.	You should follow the process in the	Consider your obligations under anti
	grant, but was	If HMRC have not already been informed,	flowchart in PCRT help sheet C.	money laundering
	clearly ineligible on	the amount of the incorrectly claimed grant	This will include ceasing to act for that client	legislation and whether you need to
	the objective	must be declared on Box 2 on page TR5 of	if they remain unwilling to take the	submit a Suspicious Activity
	criteria. ⁷	the tax return.	necessary action.	Report.
2a	Client claimed the	The member should discuss the claim with	N/A. No further action is necessary.	
	grant, but there is	the client, ensuring the client understands		
	doubt over	the eligibility criteria.		
	eligibility due to	Where the client provides an explanation of		
	the subjective	eligibility to your satisfaction no corrective		
	nature of some of	action is necessary, although you should		
	the criteria.8 –	document these discussions.		
	satisfactory client			
	explanation			
2b	Client claimed the	The member should discuss the claim with	You should consider whether it is	Consider your obligations under anti
	grant, but there is	the client, ensuring the client understands	appropriate to continue to act for that	money laundering
	doubt over	the eligibility criteria.	client.	legislation and whether you need to
	eligibility due to	Where the explanation leaves room for	If you conclude that it is appropriate to	submit a Suspicious Activity
	the subjective	doubt, but the client maintains the eligibility	continue to act (for example, because the	Report.
	nature of some of	criteria were met, no corrective action is	position is sufficiently arguable) you should	
	the criteria.9 –	necessary, although you should document	monitor the situation carefully and should it	
	client explanation	these discussions.	later become apparent that there is in fact	
	leaves room for	You may wish to take specialist advice if you	an irregularity, despite the client's previous	
	doubt	are unclear as to whether the eligibility	assurances to the contrary, you should	
		criteria are met in the particular	follow the process in the flowchart in PCRT	
		circumstances.	help sheet C.	
			This will include ceasing to act for that client	
			if they remain unwilling to take the	
			necessary action.	

⁷ For example, the business has ceased trading, or the business became incorporated etc.

⁸ For example, whether the business has been 'adversely affected' (SEISS 1 and 2), or has suffered reduced activity, capacity or demand (SEISS 3) etc.

⁹ For example, whether the business has been 'adversely affected' (SEISS 1 and 2), or has suffered reduced activity, capacity or demand (SEISS 3) etc.

Ref	Scenario	Necessary action	Client refuses to take the necessary action	Other considerations
2c	Client claimed the grant, but there is doubt over eligibility due to the subjective nature of some of the criteria. 10 – inadequate client explanation	Where the client's explanation is inadequate and you conclude that the eligibility criteria are not met, you should advise the client to repay the grant to HMRC. If HMRC have not already been informed, the amount of the incorrectly claimed grant must be declared on Box 2 on page TR5 of the tax return.	You should follow the process in the flowchart in PCRT help sheet C. This will include ceasing to act for that client if they remain unwilling to take the necessary action.	Consider your obligations under anti money laundering legislation and whether you need to submit a Suspicious Activity Report.
3	Client claimed the grant, but there is a lack of supporting evidence to corroborate the claim.	The member should discuss the claim with the client, and the types of evidence the client should retain to demonstrate eligibility. Lack of evidence would not of itself require corrective action, but would be one of the key factors to take into consideration in 2 above.	See 2 above.	Remember, it is not necessary to apply hindsight, and the relevant evidence could constitute a mixture of 'real time' factors (being closed, lost contracts etc), as well as evidence available subsequently (business accounts etc). In any event, agents should encourage their clients to identify and retain the evidence that demonstrates entitlement to the grant.

¹⁰ For example, whether the business has been 'adversely affected' (SEISS 1 and 2), or has suffered reduced activity, capacity or demand (SEISS 3) etc. ¹¹ See https://www.gov.uk/guidance/claim-a-grant-through-the-self-employment-income-support-scheme#recordstokeep

Ref	Scenario	Necessary action	Client refuses to take the necessary action	Other considerations
4	The member	If a grant has been received, it must be	You should follow the process in the	
5	knows a grant was received, but the client does not wish to report receipt of the grant on the return. Client will not confirm receipt of the grant (and therefore appears unwilling to report it), but the member suspects a grant might have been claimed.	included in the relevant box on the tax return (see below). You should remind your client of these obligations, the fact that HMRC know who has claimed the grant and is already investigating discrepancies with submitted returns, and the consequences of failure to report the grant. You should document these discussions. If a grant has been received, it must be included in the relevant box on the tax return (see below). You should remind your client of these obligations, the fact that HMRC know who has claimed the grant and is already investigating discrepancies with submitted returns, and the consequences of failure to report the grant. You should document these discussions.	You should follow the process in the flowchart in PCRT help sheet C. This will include ceasing to act for that client if they remain unwilling to take the necessary action. You should consider whether it is appropriate to continue to act for that client. If you conclude that it is appropriate to continue to act (for example, because the client's position is plausible – either through evidence or explanation) you should monitor the position carefully and should it later become apparent that there is in fact an irregularity, despite the client's previous assurances to the contrary, you should follow the process in the flowchart in PCRT help sheet C. This will include ceasing to act for that client if they remain unwilling to take the	Agents were not able to make grant claims on behalf of their clients, and claims could be paid by HMRC into personal bank accounts. However, agents were expected to advise clients, including on their eligibility and the process for making claims. Further, agents may undertake the record-keeping for some of their clients. A member may, therefore, have some knowledge of whether a grant was claimed. Consider your obligations under anti money laundering legislation and whether you need to submit a Suspicious Activity Report. It is also important that the grant amount is not also included in other boxes on the tax return in order to avoid double-counting (and potentially double taxation). You may need to review how software is populating the return.
6	The amount of	There is no requirement to check the	necessary action. You should follow the process in the	This is an unlikely scenario as HMRC
	grant received by the client was more than they were entitled to.	calculation of the grant. However, if it becomes apparent that the amount paid to the client exceeded their entitlement, the excess must be repaid to HMRC. If HMRC have not already been informed, the excess must be declared on Box 1 on page TR5 of the tax return.	flowchart in PCRT help sheet C. This will include ceasing to act for that client if they remain unwilling to take the necessary action.	undertook the calculations based on data it holds. But we understand that overpayments were made in a small number of cases.

Relevant tax return boxes

Manuface Allerrance

Main return

SA100, Page TR8, Box 20.1: declaration that have included coronavirus support payments (inc SEISS) as taxable income when calculating profits in the period of this return.

Signing	your	form	and	sending	it back
---------	------	------	-----	---------	---------

Please fill in this section and sign and date the declaration at box 22.					
20 If this tax return contains provisional figures, put 'X' in the box	23 If you've signed on behalf of someone else, enter the capacity. For example, executor, receiver				
20.1 If any of your businesses received coronavirus support payments (such as CJRS, SEISS) you must put 'X' in the box to declare that they have been included as taxable income when calculating profits in the period of this return	24 Enter the name of the person you have signed for 25 If you filled in boxes 23 and 24 enter your name				
21 If you're enclosing senarate supplementary nages					

SA100, Page TR5, Box 2: amount of SEISS payments incorrectly claimed, which you haven't already told HMRC about.

Incorrectly claimed coronavirus support scheme payments Please read the notes before filling in this section. Only fill in this section if you incorrectly claimed any payments from the Coronavirus Job Retention Scheme, Eat Out to Help Out Scheme, Self-Employment Income Support Scheme (SEISS) or from any other applicable HMRC coronavirus support scheme and you still need to tell HMRC. 1 Amount of HMRC coronavirus support scheme payments (other than SEISS) incorrectly claimed 2 Amount of SEISS payments incorrectly claimed

Self-employment pages

SA103S, Page SES2, Box 27.1: amount of SEISS grant(s) received, net of amounts already repaid to HMRC or assessed by HMRC.

Calculating your taxable profits

Your taxable profit may not be the same as your net profit. Please read the 'Self-employment (short) notes' to see if you need to make any adjustments and fill in the boxes which apply to arrive at your taxable profit for the year.

27 Goods and/or services for your own use	29 Loss brought forward from earlier years set off against
£ 00	this year's profits – up to the amount in box 28
27.1 Self-Employment Income Support Scheme grant	£ 00
£ 000	30 Any other business income not included in box 9
28 Net business profit for tax purposes (if box 21 + (boxes 26	or box 10
to 27.1) minus (boxes 22 to 25.1) is positive). Or if you've	
completed box 10.1 (box 21 + box 26 + box 27 + box 27.1	
minus box 10.1)	
£ .00	
T-1-11	

SA103F, Page SEF4, Box 70.1: amount of SEISS grant(s) received net of amounts already repaid to HMRC or assessed by HMRC

70	Overlap profit carried forward		£							•	0	0	
[£ 00	75.1	Disgui	sed re	emui	nerat	ion a	dditi	ons	to p	rofits	s – read	d the note
70.1	Self-Employment Income Support Scheme grant		£							-	0	0	
[£ 00	76	Total t	axab	le pr	ofits	fror	n thi	s bu	ısine	ess (box 73	3 +
71	71 Adjustment for change of accounting practice		box 75 working						74)	– or	use	the	
	£ 00		£								0	0	

.

Partnership pages

SA104S, Page SP1, Box 9.1: amount of SEISS grant(s) received, net of amounts already repaid to HMRC or assessed by HMRC.

£	
9.1 Self-Employment Income Support Scheme grant £ 0 0	Losses brought forward from earlier years set off against this year's profit (up to the amount in box 16)
Adjustment for change of accounting practice - from box 11A on the Partnership Statement £ 0 0	Taxable profits after losses brought forward (box 16 minus box 17)
44 Averaging adjustment only for farmers market	

SA104F, Page FP1, Box 9.1: amount of SEISS grant(s) received, net of amounts already repaid to HMRC or assessed by HMRC.

9 If your basis period is not the same as the partnership's	
accounting period, enter the adjustment needed to	16 Adjusted profit for 2020-21 – see the Working Sheet
arrive at the profit or loss for your basis period	in the notes
£ • 0 0	£ 00
9.1 Self-Employment Income Support Scheme grant	17 Losses brought forward from earlier years set off
£ 00	against this year's profit (up to the amount in box 16)
	£ .00
10 Adjustment for change of accounting practice	
- from box 11A on the Partnership Statement	18 Taxable profits after losses brought forward
£ 00	(box 16 minus box 17)
	£ .00
11 Averaging adjustment – only for farmers, market	