

# Technical factsheet

# 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> 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.

While 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 Coronavirus Job Retention Scheme (CJRS), on which <a href="mailto:separate">separate</a> guidance has also been prepared.

#### Submission of returns

For the avoidance of any doubt, ACCA considers that SEISS claims fall within the scope of PCRT. We understand that HMRC also considers the standards required under <a href="https://example.com/hmRC/s-standards">HMRC's</a> Standards for Agents to relate to SEISS claims, too.

You should familiarise yourself with the contents of <u>PCRT helpsheet A: submission of tax</u> information and 'tax filings'. 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)
- 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 helpsheet C: dealing with errors*.

# **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 that were fraudulent must be repaid and, if not, the procedures in <u>PCRT helpsheet C:</u> <u>dealing with errors</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 <u>PCRT helpsheet C:</u> <u>dealing with errors</u> 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 <a href="AML obligations">AML obligations</a> are not met by making a report to the <a href="Coronavirus fraud helpline">Coronavirus fraud helpline</a>.

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

Ref	Scenario	Necessary action	Client refuses to take the necessary action	Other considerations
1	Client claimed the grant, but was clearly ineligible on the objective criteria – for example, the business has ceased trading, or the business became incorporated.	The grant must be repaid 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 helpsheet C: dealing with errors. This will include ceasing to act for that client if they remain unwilling to take the necessary action.	Consider your obligations under antimoney laundering legislation and whether you need to submit a suspicious activity report.
2a	Client claimed the grant, but there is doubt over eligibility due to the subjective nature of some of the criteria – for example, whether the business has been 'adversely affected' (SEISS 1 and 2), or has suffered reduced activity, capacity or demand (SEISS 3) – satisfactory client explanation.	The member should discuss the claim with the client, ensuring the client understands the eligibility criteria.  Where the client provides an explanation of eligibility to your satisfaction no corrective action is necessary, although you should document these discussions.	N/A. No further action is necessary.	
2b	Client claimed the grant, but there is doubt over eligibility due to the subjective nature of some of the criteria (For example, whether the business has been 'adversely affected' (SEISS 1 and 2), or has suffered reduced activity, capacity or demand (SEISS 3) – client explanation leaves room for doubt.	The member should discuss the claim with the client, ensuring the client understands the eligibility criteria.  Where the explanation leaves room for doubt, but the client maintains the eligibility criteria were met, no corrective action is necessary, although you should document these discussions.  You may wish to take specialist advice if you are unclear as to whether the eligibility criteria are met in the particular circumstances.	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 position is sufficiently arguable) you should monitor the situation 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	Consider your obligations under antimoney laundering legislation and whether you need to submit a suspicious activity report.

			the flowchart in PCRT helpsheet C: dealing with errors.  This will include ceasing to act for that client if they remain unwilling to take the necessary action.	
2c	Client claimed the grant, but there is doubt over eligibility due to the subjective nature of some of the criteria (for example, whether the business has been 'adversely affected' (SEISS 1 and 2), or has suffered reduced activity, capacity or demand (SEISS 3) – 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 helpsheet C: dealing with errors.  This will include ceasing to act for that client if they remain unwilling to take the necessary action.	Consider your obligations under antimoney 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 – See https://www.gov.uk/guidance/claima-a-grant-through-the-self-employment-income-support-scheme#recordstokeep.  Lack of evidence would not of itself require corrective action, but would be one of the key factors to take into consideration in 2a, 2b and 2c above.	See 2a, 2b and 2c above.	Remember, it is not necessary to apply hindsight, and the relevant evidence could constitute a mixture of 'realtime' factors (being closed, lost contracts etc), as well as subsequent available evidence (business accounts etc).  In any event, agents should encourage their clients to identify and retain the evidence that demonstrates entitlement to the grant.

4	The member knows a grant was received, but the client does not wish to report receipt of the grant on the return.	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 <u>PCRT</u> <u>helpsheet C:</u> <u>dealing with errors</u> .  This will include ceasing to act for that client if they remain unwilling to take the necessary action.	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,
5	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.	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 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 helpsheet C: dealing with errors.  This will include ceasing to act for that client if they remain unwilling to take the necessary action.	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 grant received by the client was more than they were entitled to.	There is no requirement to check the 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.	You should follow the process in the flowchart in PCRT helpsheet C: dealing with errors.  This will include ceasing to act for that client if they remain unwilling to take the necessary action.	This is an unlikely scenario as HMRC 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**

Signing your form and sending it back

### Main return

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

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 anclosing senarate sunnlementary names		

SA100, Page TR5, Box 2: amount of SEISS payments incorrectly claimed, which HMRC has not already been told about

<b>Incorrectly claimed coronavirus supp</b> Please read the notes before filling in this section. Only fill in	oort scheme payments this section if you incorrectly claimed any payments from the
Coronavirus Job Retention Scheme, Eat Out to Help Out Sch any other applicable HMRC coronavirus support scheme and	heme, Self-Employment Income Support Scheme (SEISS) or from d 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 £ 0 0

# **Self-employment pages**

SA103S, Page SES2, Box 27.1: amount of SEISS grant(s) received, net of amounts already repaid to, 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
27.1	£ • 0 0 Self-Employment Income Support Scheme grant	this year's profits – up to the amount in box 28
27.1	£ 00	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	£ .00
	completed box 10.1 (box 21 + box 26 + box 27 + box 27.1	
	minus box 10.1)	
	£ 00	
<b>T</b> - 1	-14	

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

70 Overlap profit carried forward	£ 00 · 00
£ 00	75.1 Disguised remuneration additions to profits – read the notes
70.1 Self-Employment Income Support Scheme grant	£ 00 - 00
£ 00	76 Total taxable profits from this business (box 73 +
71 Adjustment for change of accounting practice	box 75 + box 75.1 minus box 74) – or use the working sheet in the notes
£ 00	£ .00

# Partnership pages

SA104S, Page SP1, Box 9.1: amount of SEISS grant(s) received, net of amounts already repaid to, 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)
10 Adjustment for change of accounting practice  – from box 11A on the Partnership Statement  £ 0 0	18 Taxable profits after losses brought forward (box 16 minus box 17)
11 Averaging adjustment – only for farmers, market	

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

9 If your basis period is not the same as the partnership's accounting period, enter the adjustment needed to arrive at the profit or loss for your basis period	Adjusted profit for 2020-21 – see the Working Sheet in the notes
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)
10 Adjustment for change of accounting practice	
<ul> <li>from box 11A on the Partnership Statement</li> </ul>	18 Taxable profits after losses brought forward
£ • 0 0  11 Averaging adjustment – only for farmers, market	(box 16 minus box 17)

May 2021

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