

EXCLUDED

The Self-Employed Excluded from the Self-Employed Income Support Scheme

The Self-Employment Income Support Scheme (SEISS) was announced on 26 March 2020 in parallel to the Coronavirus Job Retention Scheme (CJRS), with support at 80% of trading profits. HMRC identified 3.4 million who were eligible for SEISS¹, based on information held from their self-assessment returns for tax years 2016-2017, 2017-2018 and 2018-2019.

However, hard edges to the eligibility criteria have left 1.6 million self-employed workers outside of the scope of the scheme through no fault of their own, with three key exclusions and one further scenario as follows:

- requirement of a minimum of 50% of trading profits from self-employment
- newly self-employed who had not submitted a 2019-2020 tax return could not benefit from the scheme
- total trading profit had to be £50,000 or less
- businesses with low to no profit over the 3-year profit calculation period

The first two criteria often go hand in hand. Thus, many have found themselves excluded on the basis of both criteria.

This paper considers the exclusions in relation to the requirement for a minimum of 50% of trading profits to come from self-employment.

ExcludedUK has a wealth of evidence from case studies illustrating how those who have fallen foul of the SEISS eligibility criteria have been plunged into debt and for many poverty. This is also a group of people who often have never found themselves in such a position, having never relied on benefits before.

As financial expert Martin Lewis (Money Saving Expert) pointed out in the Treasury Committee meeting of 9 December 2020:

¹ www.gov.uk/government/statistics/self-employment-income-support-scheme-statistics-august-2020/self-employment-income-support-scheme-statistics-august-2020

“The one [category] that we need to focus on are the people who were able to support themselves before, who were perfectly financially independent without mainstream support from the State, who were in businesses and sectors like travel, events or entertainment or hospitality and who solely because of this pandemic are not able to support themselves, and my concern is it would be short-sighted of the State to provide them with no support at all so they continue to languish and they move into that category of people that will permanently be in financial trouble and will permanently need to be a burden on the State. And by not providing short-term support to get them through to the end of this pandemic, and that includes limited company directors, it includes the newly self-employed, it includes the other excluded categories, all of whom were in viable work, to use the Chancellor’s term, is a short-sighted mistake that will cost us more in the long run. We need to get people over this hump, and then back to their jobs, back working, back paying taxes.”²

According to accountants QuickBooks, 3 million people faced having to pay tax bills double the normal size by the deadline of 31 January 2021 “as bills already deferred from last year begin to pile up”³.

The Resolution Foundation’s report “Long Covid in the labour market” of 18 February 2021 states that according to their survey three in ten self-employed workers equivalent to 1.5 million people “said that while their profits had fallen as a result of Covid-19, they had not been eligible to receive a grant through the scheme. This exclusion could have longer-term consequences, too, as those who were not eligible for the SEISS were two-and-a-half times more likely to say they planned to leave self-employment than those who received a grant”⁴.

For those self-employed people who have been excluded from SEISS and recently submitting their tax returns it has been a bitter pill to swallow, having to pay tax on their pre-Covid incomes from their decimated 2020 income. ExcludedUK called for tax to be waived for those affected as a gesture that would offer some help to these people. However, there was no response to these calls by the Treasury. Moreover, for those who took advantage of the tax deferral for payments due 31 July 2020, the financial strain at this time has been all the harsher.

For those who have taken out Bounce Back Loans, reminders are starting to be sent out informing people that their repayments are due to commence in the new few months. Loans and deferrals were never the solution.

The Treasury Committee report of 15 February 2021 further highlighted the gaps in support first identified in its report of 15 June 2020, emphasising its recommendations to the Treasury to amend the eligibility criteria so as not to exclude these three groups⁵.

² <https://youtu.be/ZpMUD9TPSXl>

³ www.telegraph.co.uk/tax/return/taxpayers-owe-4bn-hmrc-thousands-struggle-pay-bills/

⁴ www.resolutionfoundation.org/app/uploads/2021/02/Long-covid-in-the-labour-market.pdf

⁵ <https://committees.parliament.uk/publications/4703/documents/47210/default/>

ExcludedUK full supports these recommendations and urges the Treasury to adopt these recommendations.

The Self-Employed Excluded from SEISS Due to Trading Profits Being Less than Non-Trading Profits (the '50% Rule')

Overview

SEISS criteria includes the requirement that at least 50% of a person's trading profits come from self-employment. Their total trading profits must also be £50,000 or less.

Many who start out in self-employment do so gradually and will often continue PAYE work to minimise risk, building up their capacity to generate self-employed earnings. They may also be completing and paying for training which limits their capacity to earn and reduces their initial profits.

The 50% distinction has been interpreted by the Government as an indicator that these individuals will receive furlough from another employer but for many this is absolutely not the case.

How many are affected?

According to the National Audit Office, HMRC estimated 1.4 million had earned less than 50% of their earnings from self-employment, which was confirmed in a release on the UK Government website referring directly to HMRC data⁶.

The Institute for Fiscal Studies (IFS) report of 27 January 2021 stated that more than half of those affected in this category have total personal incomes of less than £25,000, "meaning that targeting support at this group would affect many people with low or moderate personal incomes. They also have relatively low levels of self-employment profits (more than half have profits under £5,000 per year)"⁷.

Cost

The same IFS report estimated that extending SEISS to accommodate all those affected by the 50% rule would be relatively cost efficient in comparison to other spending on government support schemes at approximately £500 million to £800 million per quarter.

Further Considerations

1. 3-year profits calculation period is out of date

The data being used to assess eligibility is out of date, based on the tax years 2016-2017, 2017-2018 and 2018-2019. The intelligence being used does not match current facts – it is simply not an accurate reflection of the current situation for those affected.

⁶ www.gov.uk/government/statistics/self-employment-income-support-scheme-statistics-august-2020/self-employment-income-support-scheme-statistics-august-2020?fbclid=IwAR3JFjY7jI-ZRFXfzRFmZ7A94clWipHpIRYfeX7BAa419GPMp_5AAYvkk4

⁷ www.ifs.org.uk/publications/15281

2. PAYE employment

Among those who have been excluded due to PAYE employment constituting more than 50% of income, many no longer work in PAYE employment so have no option to furlough, and are thus unable to request a past employer to furlough them. The nature of building up self-employment is such that many people's circumstances change as they work to build up their own business.

For those who had reached over 50% of trading profits from self-employment from 2019-2020 onwards there has been no consideration or support, leaving them with absolutely no financial support just at a time when their businesses demonstrate financial success. Some businesses that were profitable in the year pre-Covid have suddenly been rendered non-viable by lockdown restrictions or need to adapt and have no support to do so. This leaves this group completely vulnerable. HMRC records for 2019-2020 will better reflect the reality of their situation far more accurately and should be taken into account.

3. Other income

Additionally, people have been excluded on the basis of other income. CJRS had no such criteria. We find the way this has been calculated lacks meaningful consideration of an individual's financial position. The Government's insistence that this group can access Universal Credit is misleading and for many is simply not true. The following are also taken into account when calculating entitlement to SEISS:

Savings: many have had to spend all their savings before even being eligible to apply for Universal Credit. For many, these savings included the monies for their 2019-2020 tax bill. HMRC figures indicate a steep rise in people unable to pay their bill in full this year⁸. The rest of the working population have not been asked to exhaust their financial savings during the pandemic.

Pensions: anyone in receipt of pensions payments while also in self-employment eg. those taking an early one-off payment for a pension, army pensions, widow's pensions. There are no special considerations given where people have received a one-off payment that in no way represents that person's regular annual income.

Bereavement Allowance: for those in receipt of Bereavement Allowance, these payments will be calculated as non-trading profits.

Carer's Allowance: with no consideration given for the additional likelihood that these people are also required to shield.

Redundancy payments: any such payments received within the applicable 3-year period will be taken into account despite this not being a measure of this person's regular income.

Rental Income: including those taking in lodgers often out of necessity financially, and holiday lettings. No consideration was given for the fact that for many, these incomes fell drastically or completely as a result of the pandemic.

⁸ www.telegraph.co.uk/tax/return/taxpayers-owe-4bn-hmrc-thousands-struggle-pay-bills/

Case study examples

- A self-employed filmmaker of 37 years took a one-off pension drawdown from his life-time savings in 2016-2017, four years before SEISS was announced. This was classed as non-trading profits and was higher than his trading profits and therefore he could not receive any support
- An entrepreneur who had built up two businesses over 3 years, and financed the start up of both businesses through down-sizing and renting out her home, was earning just under £40k in 2019-2020 is excluded based on employment data that was taken from the years when she was working for another employer part-time and retraining. She no longer has another job and her rental property was unlet for months during lockdown. Both her industries, the arts and wellbeing, are shut down and she has spent all her savings, which she had planned to invest in a pension, on living costs
- A healthcare professional who worked for the NHS until autumn 2018 was excluded due to this PAYE employment being greater than her self-employed trading profits. As her contract came to an end she began the process of setting up her business which she launched in March 2019. She drew her pension in autumn 2019, thinking it would be a cushion in the first year of business, but it was never meant to be something to live off. Consequently, she is not eligible for Universal Credit. In moving her business online, she has realised how much competition there is to offer the lowest prices, thus adding to the impact felt by loss of work during the pandemic
- Someone who became a sole trader at the beginning of 2018-2019 tax year, following redundancy at the end of the 2017-2018 tax year found herself excluded due to the 50% rule. With her PAYE salary she was paid a month in arrears, so her last salary payment that included redundancy was paid April 2018 of £27k. She obviously cannot be furloughed from a job from 3 years ago and from which she was made redundant. She used her lump sum to reduce her mortgage, but has been left with no support
- Someone who had formerly been in the army, having served in Afghanistan, Iraq and Bosnia, set up a pet sitting business on leaving the army several years ago as her army pension was not enough to live off. Here army pension turned out to be a little more than her trading profits from her pet sitting business and she has therefore been left with no support, whilst having to shut down her business definitively

Potential Solutions

1. Take HMRC records for 2019-2020 into account

This will reflect the reality of the situation for the self-employed far more accurately and should be taken into account.

2. Remove the 50% requirement

We fully support the recommendation of the Treasury Committee in its report of 15 February 2021 stating, “we believe that the Government should reconsider the 50 per cent

limit in the eligibility criteria for the fourth tranche of the SEISS grant so that those who derive less than half of their income through self-employment can receive some level of support”⁹.

3. Backdated payment

It is only fair that support be backdated in order to achieve parity in support for those thus far excluded.

Conclusion

The 50% rule is a particularly unfair eligibility criteria and somewhat absurd when thinking about the impacts of such payments as redundancy from a job from a few years ago, widow’s or army pensions, or bereavement payment, for example. While many factors relating to the 50% rule may have been oversight on the part of the Treasury, so many people who fall within this category have been forced into debt and poverty. These are our entrepreneurs and freelancers, vital to our communities, and who are integral to economic recovery.

Report prepared by Sonali Joshi (Founder - Director of Policy & Communications, ExcludedUK) & Helen Ball (ExcludedUK)

sonali@excludeduk.org

www.excludeduk.org

© ExcludedUK

22 February 2021

⁹ <https://committees.parliament.uk/publications/4703/documents/47210/default/>