



FREQUENTLY ASKED QUESTIONS

WAGE SUBSIDY

The Government has stepped to assist by providing a wage subsidy scheme for which all employers can apply. Provided they meet certain conditions, employers can receive \$585.80 for employees working 20 hours or more per week, and \$350.00 for employees working less than 20 hours per week, paid as a lump sum covering 12 weeks per employee.

Since its announcement, the scheme has gone through several iterations. Broadly though, these key criteria have remained constant:

- Your business must have experienced a minimum 30% decline in actual or predicted revenue over the period of a month when compared with the same month last year, and that decline is related to COVID-19;
- Your business must have taken active steps to mitigate the impact of COVID-19 (including but not limited to engaging with your bank, drawing on your cash reserves as appropriate, making an insurance claim); and
- You must make best efforts to retain employees and pay them a minimum of 80% of their normal income for the subsidised period.

QUESTIONS RAISED

WHAT CAN THE SUBSIDY BE USED FOR?

It is not intended to fund other aspects of your business, but to keep staff employed while you work out the implications of the Covid-19 shutdown.

The government guidelines are as follows: “You will only use the subsidy for the purposes of meeting your named employees ordinary wages and salary and your obligations in relation to this subsidy.”

DO I HAVE TO PAY EMPLOYEES 80% OF THEIR WAGES TO GET THE SUBSIDY?

You are required as an employer to use “best endeavours” to pay employees 80 % of their wages. Where a business has no activity due to the shutdown and employees are not working any hours, this would be an example where an employer will not be expected to pay 80% of their employees’ pay.

CAN I JUST REDUCE EMPLOYEES WAGES DOWN TO 80% OR THE LEVEL OF THE SUBSIDY?

You cannot change an employee’s pay (or other terms and conditions of employment) without their agreement.

Employers still have the same obligations under the Employment Relations Act 2000. You are not permitted to make any changes to an employee’s rate of pay or hours without their written agreement. Most employers who consult with their staff about reducing their wages to 80% or lower are finding that employees are generally accepting the change, rather than face potential redundancy.



The agreement must be in writing, and in fairness to the employee it should ideally indicate how long the reduction in pay will remain for or when it will be reviewed.

If employees do not agree to reduce their pay, you would have to continue paying them at their usual rate, or ask them to agree to take unpaid leave or to agree to reduce their hours.

WHAT IF THE EMPLOYEE EARNS LESS THAN THE SUBSIDY?

For any employee whose salary or wages was below the subsidy level, employers are only expected to pay them at that level and not at the higher rate of the subsidy. Guidance on the MSD website suggests that excess subsidy can be applied to paying other employees' wages who might otherwise be paid at a level higher than the subsidy.

HOW DO I DETERMINE WHETHER AN EMPLOYEE WORKED MORE OR LESS THAN 20 HOURS?

The 20 hour per week threshold determines whether you receive the flat rate for part time or full-time employees. The Government's guidance suggests that what matters is the hours the employee has actually worked, not what they were contracted to work. That guidance states that average weekly hours can be determined by reference to the hours worked each week over the previous 12 months, or if they have not worked for you for 12 months yet, then the weekly average over their period of employment.

CAN I USE THE SUBSIDY TO PAY CASUAL EMPLOYEES?

Applications can be made on behalf of casual employees using the average weekly hours calculation referred to above.

WILL THE WAGE SUBSIDY APPLY IF I AM PAYING EMPLOYEES ANNUAL LEAVE OR SICK LEAVE?

You cannot force employees to use their annual leave entitlement for the period you receive the subsidy for those employees. The guidance indicates that you can use the subsidy to pay annual leave as this is effectively wages.

So, if employees are genuinely sick, or caring for someone who is sick, they could claim sick leave and the subsidy could still be applied to that period.

If employees agree to take accrued annual leave, or annual leave in advance, or you lawfully direct them to take accrued annual leave on 14 days' notice, then the subsidy can be claimed.

WHAT SHOULD EMPLOYEES BE PAID FOR STATUTORY HOLIDAYS?

Your obligations as an employer is to pay statutory entitlements according to the Holidays Act. If employees would have otherwise worked on the public holiday had the Level 4 Alert phase not been in place and it had not been a public holiday, then they have a right to be paid for that public holiday at the statutory rate.

The Holidays Act says that employees are to be paid for public holidays at the rate of not less than their relevant daily pay (what they would have earned had they worked that day) or, if impossible to



work out what their relevant daily pay would be, their average daily pay (being the average of the previous 52 weeks).

WILL I HAVE TO PAY BACK THE SUBSIDY IF STAFF ARE MADE REDUNDANT?

The message is clear that as an employer you will retain the employees named in your application as your employees for the period you receive the subsidy in respect of those employees. The intent of the scheme is, where you have received a subsidy regarding an individual employee, you will not make that employee redundant for the entire 12 weeks for which the subsidy was received.

You will be required to repay the subsidy, or any part of it, for which you do not meet the obligations for its use or for which you stop being eligible. You are also required to notify MSD within five working days if any employee ends their employment with you.

CAN THE SUBSIDY BE PAID AS A LUMP SUM TO EMPLOYEES?

Some employers are electing to pay to each employee the entire 12-week subsidy received for their wages as a lump sum. I would not advise doing this, I would encourage to pay your employees in the normal pay cycle. If the employee's employment is terminated (whether by reason of redundancy or because they resign for example) then the employer may be in breach of their declaration if they do not repay MSD for the period of the 12-week subsidy payment for which that employee was no longer employed.

You must notify MSD within five working days if any of the employees named in your application end their employment relationship with you.

CAN I APPLY FOR THE SUBSIDY MORE THAN ONCE?

You can only apply once per employee, but if you have missed employees in an initial application you can apply again regarding those additional employees.

CAN I APPLY FOR MY SELF-EMPLOYED BUSINESS WHEN I AM GETTING IT THROUGH MY EMPLOYER?

Yes, current reading and the FAQ's listed on the website say that multiple applications for the same person are fine as long as they are not by the same employer. So, if you work 20 hours or more as an employee but also run a side business working over 20 hours you can apply for two lots of the subsidy.

WHAT ARE THE TAX AND ACCOUNTING TREATMENTS OF THE SUBSIDY?

The Inland Revenue have yet to clarify fully the tax treatments and timing so this specific part is subject to change. When you receive the subsidy on behalf of your employees this amount is non-GST and non-taxable. However, when you pay the amount out it is non-deductible. Effectively making it taxable. Given both of these transactions don't involve tax the timing of when they are claimed and paid is an accounting one. Convention points towards applying the full amount over the time it is intended for (twelve weeks) meaning most of it would be accounted for in the 2021 year.

That doesn't specifically effect employers but as Shareholder Employees and Sole Traders are taxed on this income (not GST) it will be important as to when you pay tax. Currently you will be taxed on



this at your individual tax rates with one week likely to be in 2020 and the remaining 11 in 2021 financial year. When accounting for this please set up a new code and call it “wage subsidy” with no GST. Apply the amount there and then just pay your wages as normal.

PRACTICAL STEPS TO TAKE!

Upon receipt of the funds put it into a separate bank account (set one up if necessary). Then when paying employees transfer the amount of the subsidy per employee into your wages account each pay run. This way it will be a lot easier to track should you become audited and you don’t run the risk of having to pay back funds you don’t have!

I’M SELF EMPLOYED, CAN I USE THE FUNDS AS I WISH?

Yes, this is a replacement of the income you would have received. Unlike the employer subsidy this payment isn’t required to be passed on and you can use it as you wish. Make sure you set aside funds for tax on this however.

CASE STUDIES

Non-essential business + Minimum waged worker

James is a barista at a Wellington café. James earn the minimum wage. The café is closed for the lockdown and has had a 30% loss in revenue. James’ employer cannot afford to pay any wage to James, but wants to keep him on. James does not want to use his annual leave entitlements.

James’ employer can access the wage subsidy and pay \$585.80 per week to James, without James being required to do any work. James retains his annual leave entitlements to use at a different time.

Able to do some work from home + Full-time worker

Sam is a civil engineer. He usually works 40 hours per week at \$30 per hour, with a usual gross income of \$1200 per week. The business is non-essential and closed for the lockdown and has had a 30% loss of revenue. Sam can do some work from home over this period. He works 30 hours per week for the duration of the Alert Level 4 lockdown period.

Sam’s employer can access the wage subsidy and pays Sam his usual salary at the agreed reduced hours, which is \$900. Sam’s employer can use the \$585.80 per week to subsidise Sam’s wages, this means Sam’s employer will top up the wage subsidy with \$314.20 to compensate the hours Sam worked.

Non-essential business + Can do some work from home

Phil is an HR advisor in a medium-sized business and works full time. The business is non-essential and closed for the lockdown and has experienced a 30% loss of revenue. Phil can do some work from home. He does 8 hours per week. His hourly rate is \$25 per hour.

Phil’s employer can access the wage subsidy. Their revenues have dropped so much that they are worried as they will be unable to retain their staff. Under employment law, Phil must receive \$200 per week for the hours worked. His employer can use the remaining money from the subsidy for other affected employees.



Non-essential business + Unable to work

Craig is a waiter at a successful restaurant chain that also needs to close during the lockdown. Craig was getting paid \$1,000 per week. Craig's employer has committed to paying full wages to their staff as they know that such workers will be in demand as the lockdown ends. The restaurant has suffered a 30% loss in revenue due to COVID-19.

Craig's employer can access the wage subsidy scheme to pay Craig \$585.80 per week, and the employer can then top that up with \$414.20 per week to ensure Craig receives his full income.

Essential business + Able to work

Steve is an essential services worker, ensuring certainty of electricity supply. Steve is really busy, working his normal hours and getting paid at his normal rate, and his business has not been affected by COVID and does not require support to pay or retain its staff.