

Practical guidance on the recent changes to the Wage Subsidy Scheme

In our previous [update](#), we outlined the key features of the Temporary Wage Subsidy Scheme (TWSS) and addressed some of the frequently asked questions in relation to the TWSS.



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In the past few days the Government announced a number of significant changes to the TWSS. In announcing the changes, the Minister for Finance, Paschal Donohoe TD, noted that the TWSS “was designed and introduced with great speed ... [i]t stood to reason that there were anomalies that needed to be ironed out to ensure greater fairness and implementation of the scheme”.

Revenue data as of 17 April 2020 suggests that a relatively modest number of employers have taken up the TWSS, with only approximately 30% of registered employers having signed up. On a more positive note, 82% of employees for whom a wage subsidy is being claimed are receiving a top up payment from their employer.

There has been considerable political pressure on the Government to address a particular anomaly that has resulted in certain employees, particularly part-time employees, being financially better-off in claiming the COVID-19 Pandemic Unemployment Payment directly from the Department of Employment Affairs and Social Protection rather than receiving the wage subsidy via their employer under the TWSS. The Government has sought to address this anomaly by increasing the subsidy payment under the TWSS for those employees

with an average net weekly pay of less than €412 (equivalent to a gross annual salary of approximately €24,400).

There have also been other significant changes for employees with average net weekly pay in excess of €586, which may result in a lower subsidy payment for employees receiving higher top up payments from their employers. Significantly, employees whose average net weekly pay was more than €960 (and who were previously excluded from the TWSS as a result), but whose current pay has been reduced below this threshold, may now be in a position to receive a wage subsidy payment under the TWSS.

The changes will take effect from 4 May 2020, except for the changes in respect of employees previously earning in excess of €960 net per week, which are now in effect (as of 16 April 2020). We delve into the detail of these changes below.

Changes to wage subsidy rates

(i) Employees with average net weekly pay of less than €586 (up to approximately €38,000 gross annually)

From 4 May 2020, the following rules will apply:

Employee's average net weekly pay	TWSS
Less than €412 (approximately €24,400 gross annually)	85% of employee's average net weekly pay (increased from the previous 70%)
€412 – €500 (approximately €24,400 to €31,000 gross annually)	Subsidy of up to €350 per week
€500 – €586 (approximately €31,000 to €38,000 gross annually)	70% of employee's average net weekly pay, up to a cap of €410 (i.e. no change)

Tapering of the subsidy will apply where the gross pay paid by the employer together with the TWSS subsidy amount exceeds the employee’s average net weekly pay. There is an important exception to this for lower paid employees (employees with average net weekly pay of less than €412). For these lower paid employees, the tapering will not apply where an employer decides to top up salaries by more than 15% so that the employee receives €350 per week (between the TWSS subsidy and the employer top up). The reason for this is to make the TWSS equally attractive for lower-paid employees when compared with the €350 flat rate COVID-19 Pandemic Unemployment Payment.

While the recently announced changes to the TWSS will financially benefit lower income earners, there may still be some employees who would be better off claiming the flat rate COVID-19 Pandemic Unemployment Payment. For instance, a part time employee with an average net weekly wage of €210, who is laid off, will only receive a subsidy of €178.50 (85% of €210) but they could alternatively claim the full amount of the COVID-19 Pandemic Unemployment Payment (i.e. €350).

(ii) Employees with average net weekly pay of more than €586 (approximately €38,000+ gross annually)

The maximum cap on the subsidy will remain at €350 per week. However, a new tiered approach has been introduced with different levels of subsidy payments payable depending on the level of employer top up.

Employer top up	TWSS subsidy payment
Up to 60% of the employee's average net weekly pay	€350
Between 60% and 80% of the employee's average net weekly pay	€205
More than 80% of the employee's average net weekly pay	No subsidy

These changes have significantly increased the complexity of the TWSS. It will be more challenging for employers to correctly calculate the appropriate level of employer top up to ensure that they benefit from the highest available subsidy as well as ensuring that their employees receive adequate levels of overall payment (between the TWSS subsidy and the employer top up).

This will be a difficult balancing act for employers and may result in more generous employers being financially disadvantaged. It appears that the rationale behind these changes is to reduce the Government subsidy payable in respect of employees who earn more than €586 net per week and who are in receipt of a more significant top up from their employer. This development will likely come as a surprise to many employers who responded to the Government recommendation and Revenue position that, employers availing of the TWSS should try to top up employee wages to as close to 100% of normal salary as possible. As is highlighted in the examples below, it seems that those that did so may now be financially penalised by receiving a lesser subsidy than they have received to date under the TWSS. For certain employers with large number of employees on the TWSS who are all receiving significant top up payments, this could materially increase an employer’s projected payroll costs over the coming months.

(iii) Employees with average net weekly pay of more than €960 (approximately €76,000+ gross annually)

There will continue to be no subsidy available for this cohort of employees. However, Minister Donohoe announced a significant change in the eligibility criteria for employees whose average net weekly pay was more than €960 in the relevant reference period of January and February 2020 but has since been reduced below this threshold, as a result of which a wage subsidy may now be claimed in respect of these employees.

In order to claim a wage subsidy for these employees:

- their current net pay needs to be €960 net or less per week; and
- the payment they receive from their employer cannot be more than 80% of their average net weekly pay in January and February 2020

This change, while welcome, is also complex and employers will need to exercise diligence in applying the eligibility criteria for this cohort of employees.

Worked examples

The complexities of applying the new TWSS are best demonstrated by reference to the following worked examples. Please note that we are still awaiting further guidance from Revenue on the operation of the new rules and the changes to the TWSS. Therefore, these worked examples are based on our understanding of the changes announced and are for illustration purposes only.

In order to determine the application of the TWSS, employers should follow a two-step approach.

Step 1: Assess the employee’s average net weekly pay in January and February 2020 and assess the current payments the employer is making (including any top up payments, where applicable) to the employee; and

Step 2: Identify the wage cohort into which the employee falls.

Employee’s average net weekly pay	Wage cohort	TWSS from 26 March 2020 to 3 May 2020	TWSS from 4 May 2020*
€200 (with no current employer top up)	(i) Average net weekly pay of less than €586	€140 - 70% of €200	€170 - 85% of €200
€550 (with no current employer top up)	(i) Average net weekly pay of less than €586	€385 - 70% of €550 (subject to the maximum cap of €410)	€385 - No change
€700 (with no current employer top up)	(ii) Employees with average net weekly pay of more than €586	€350 - 70% of €700 is €490 but the maximum cap for this cohort is €350	€350 - No change
€960 (with employer top up of between 60% and 80% of average net weekly pay)	(ii) Employees with average net weekly pay of more than €586	€350 - 70% of €960 is €672 but the maximum cap for this cohort is €350	€205 - €205 subsidy applies as the employer is topping up between 60% and 80% of average net weekly pay. However, note that tapering may apply to this subsidy amount so as to ensure that, when added together, the gross pay funded by the employer and the gross pay funded by the wage subsidy does not exceed the employee’s previous average net weekly pay. For example, if the employer top up amounted to 80% of average net weekly pay, the wage subsidy would be tapered to €192 (i.e. 80% of €960 = €768 + €192 wage subsidy = €960)

Worked examples are illustrative and should not be relied upon for payroll purposes.

* Note the changes in respect of employees whose average net weekly pay was €960 in January and February 2020 but whose current pay is less than €960 net per week are in effect from 16 April 2020 and, therefore, employers will be entitled to claim a subsidy payment for this cohort as and from 16 April 2020.

€1,000 (but current salary reduced to €750 due to COVID-19)	(ii) Employees with average net weekly pay of more than €586	Nil - No subsidy as weekly average net pay for Jan/Feb 2020 exceeded €960	€205 - €205 subsidy applies as employer is paying between 60-80% of weekly average net pay. Note that the employer may add the €205 subsidy payment to the employee's current €750 salary and the subsidy would not be subject to any tapering as the overall payment (€955) would not exceed €960.
€1,000 (but current salary reduced to €500 due to COVID-19)	(ii) Employees with average net weekly pay of more than €586	Nil - No subsidy as weekly average net pay for Jan/Feb 2020 exceeded €960	€350 - €350 subsidy applies as employer is paying up to 60% of average weekly net pay. Note that the employer may add the €350 subsidy payment to the employee's current €500 salary and the subsidy would not be subject to any tapering as the overall payment (€850) would not exceed €960.
€1,150 (but current salary reduced to €950 due to COVID-19)	(ii) Employees with average net weekly pay of more than €586	Nil - No subsidy as weekly average net pay for Jan/Feb 2020 exceeded €960	Nil - No subsidy. While their current net weekly pay is less than €960, their net weekly pay has not been reduced by 20% or more (i.e. they would only be eligible to receive a wage subsidy if their current net weekly pay was €920 or less)

Conclusion

It is nearly a month since the TWSS was first announced by the Government and while its introduction was widely welcomed by employers and employees alike, as the recently published Revenue data confirms, it has not proved as popular a scheme in practice. We suspect this is primarily due to employer concerns over the eligibility criteria and employee concerns over the quantum of payment, as compared with other social welfare benefits they can claim.

The recently announced changes do go some way towards addressing some of the identified anomalies, however, the fact that certain employers may receive a lower subsidy from 4 May 2020 onwards seems like a step in the wrong direction. It remains to be seen whether these changes will have the desired effect of encouraging those employers who are still sitting on the fence to sign up to the TWSS.

Revenue issued updated guidance on 21 April 2020 (FAQ V7) to reflect the changes in respect of employees whose average net weekly pay was above €960 in January and February 2020 but whose current pay is less than €960 per week. We recommend that employers closely monitor the Revenue website in the coming days as updated guidance on the other announced changes (i.e. the changes that will have effect from 4 May 2020) is likely to be published shortly.

We will continue to provide regular updates on the TWSS, as well as all other COVID-19 developments for employers. Please regularly check the A&L Goodbody COVID-19 Hub to ensure you are up to date with the latest developments.

For further information on the TWSS, please contact, [Michael Doyle](#), Partner, [Triona Sugrue](#), Knowledge Lawyer or Ciarán Lyng, Solicitor or any member of the [ALG Employment Team](#).

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