Major Miscalculation in Guidance to Flexible Furlough Pay Scheme (UK)

At the start of the Coronavirus Job Retention Scheme (CJRS) I wrote that if the Government’s political legacy through the pandemic were to have any chance of surviving intact in the eyes of employers, the Scheme would have to be above all clear and easy for employers to use. Even though parts of the guidance around it were late, unclear or contradictory, that objective was largely achieved. Most employers were in a position to have a reasonable stab at a claim when the Scheme opened for business.

It was unfortunately too good to last, as proven beyond reasonable argument by the Guidance issued on Friday night on how as employer you calculate of the support available to you under the new Flexible Furlough Scheme. For a Scheme designed to last only from 1 July to the end of October, it is quite grotesquely over-engineered. Never was a piece of regulation more deserving of its acronym.

The Guidance includes an example about as basic as you can get. The employee is on a normal gross of £3,000 per month, is furloughed on 80% of that (£2,400) and from 1 July is to be brought back into on a half-time basis. So you would think that the relevant calculation would be that he gets his normal salary from the employer for the half-time worked (£1,500) plus half his furlough amount for the time unworked (£1,200).
Unfortunately the example given takes you through some 30 lines of workings before you get to the sum claimable under the CJRS. It goes via the number of days in a week plus the number of calendar days (and separately, working days) in the month in question to arrive at a furlough claim amount of £1,160, a £40 difference over an entire month. You might say, as the Treasury, that £40 is £40 and that multiplied by the number of people likely to be affected by this Scheme, that is a sum worth hanging onto. Agreed, but the calculation’s inclusion of the number of calendar days and working days in the month means that the equivalent figure for August would be over £1,320 (£120 more than a simple mathematical pro-rating), and for September £1,120, some £80 less. This means that over July to September (and ignoring the relatively clear reduction in the percentage of pay claimable) the net saving to the Treasury over a simple pro-rating is zero, almost to the penny. All this time the employee is receiving the same money for doing the same proportion of his monthly hours, while the reclaim amount (and hence the cost to the employer) bounces around like a cork in a storm, all to no effect. Would it have been so hard just to pro-rate it on the percentage of the week or month worked?

This is exactly the sort of thinking which plagued to the gender pay gap and taxable notice pay calculations – a level of millimetric precision which you would rather welcome in the building of a bridge or nuclear power station, but which it is total fantasy to believe could or will be applied separately to each of an employer’s hundreds or thousands of separate employees. Many will earn less than the notional annual £36,000 of our employee here, making the differences even more marginal and the extensive calculations even less worth anyone’s while, whether employer or HMRC. As a means of encouraging beleaguered employers to start bringing their furloughed staff back to productive work, this Guidance is fundamentally ill-considered. The Government’s legacy in relation to the CJRS remains up for grabs, but on this showing, the prospects are not good.

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