A friend wrote to his MP (Roger Gale) immediately after the announcements. He responded and included advice provided for Government consideration from a neighbouring MP (Craig Mackinlay) an accountant by trade.

He attached that advice, see below.

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Coronavirus government support

The problem faced by directors of smaller companies who have used the low salary and dividend route to pay themselves

I am receiving a huge number of queries from directors of typically smaller companies who have used the classic route recommended by their accountants to pay themselves a minimal amount of salary through payroll – for 2019/20 tax year, this 'golden' figure is £8,632. The reason for this figure being used is that at this level of salary, employees National Insurance is paid at the 0% rate (i.e. none physically payable) but appropriate benefits of accruing years towards the State Pension are secured as well as access to other National Insurance related benefits.

Additionally, at this level there is no Employer's national Insurance payable. And so this level of salary has been seen as a 'win-win'.

The 'remuneration' package has then typically been made up by taking dividends. Dividends are an investment return and do not qualify as a Corporation tax deduction. The mixture of paying a little more corporation tax, but receiving some of the dividend tax free (£5,000 up to 5th April 2018, £2,000 thereafter possibly across family members as well) and then paying the new dividend rates of tax (7.5% whilst a basic rate taxpayer, 32.5% at higher rate, 38.1% if additional rate) usually means a tax saving as well. This is a well-known, entirely legal and well-trodden path.

The Coronavirus Job Retention Scheme

Government support under the 'Coronavirus Job Retention Scheme' restricts pay-outs for 'Furloughed' employees broadly to 80% of typical salary. There are some more complex rules that I won't go into here; an HMRC dedicated website will be operational soon and should incorporate the common complications.

For the OMB director this means that only 80% support of the payrolled salary will be available. I must point out here that the rules of the scheme preclude active participation in the business beyond care and management functions of managing payroll, filing returns, paying and receiving and managing cashflows etc. If work is conducted to actively pursue usual turnover and business this is, as the rules are written, a precluded activity and 'Furloughing' payments cannot apply .Some businesses may find little change to their turnover and profits, others will of course be totally devastated. The 'dividend' part of the package is not supported under any scheme; this is the nub of the complaints received.

Salary and dividends – what are they?

Salary is proper 'earned' income. Dividends are investment returns. Within the personal annual tax return there is just one box for reporting dividends. For some with investment portfolios this will be the sum of dividends received across usual quoted companies. For OMB directors this will typically be the dividend from their own companies, perhaps mixed in with dividends from any quoted shares they have. Herein is part of the problem which I believe is behind the government's thinking in urgently rolling out the scheme. It could be simply that the government, through time pressure, has simply been unable to cover every angle; you can be assured that you have not intentionally been singled out for adverse treatment:-

(a) It would be impossible without deep enquiries to ascertain which of the dividends within a tax return are the OMB company dividends.

(b) Is it the role of government to maintain investment income? There is no prospect of pensioners income from their investment portfolios or private pensions being supported. Doubtless these people reliant on dividend income as part of their retirement income will soon face the reality of their quoted shares scaling back or stopping dividends as the underlying company profits disappear.

(c) OMB directors have used, entirely legally, the tax system over the years to minimise National Insurance and general tax in a way not available to usual employees. The support schemes available to other employees and self-employed are broadly driven by the level of National Insurance contribution. This is no criticism, just a sensible way to navigate a complicated tax system riddled with legal tax-saving opportunities.

(d) Given that the support to the self-employed and normal employees in receipt of similar levels of income will be greater under the government schemes available, but currently to a maximum of £2,500 for three months. i.e. £7,500, has the benefit of lower tax and NIC over the years exceeded this amount. The answer across most OMB companies over the years is probably a definite yes.

I write this to clarify the position and offer some commentary as to the possible 'why' the schemes have been developed as they have.

There is no prospect that I know of to change or enhance the support schemes but the situation is changing all the time. For instance, just last week, additional business types were added to the list of those getting Business Rates support.

The harsh reality is that beyond the minimal 'Furloughing' cash provisions available to the OMB director using the salary/dividend package, then reliance will be on the benefits system under Universal Credit. I am sorry to bear news that may be unwelcome.

You can be sure that I am feeding in to Ministers all of these issues on a daily basis as new ifs, buts and queries arise from the business community.

Craig Mackinlay MP – 30th March 2020