The Canada Emergency Wage Subsidy – Part II

What It Means for Canadian Employers

The Prime Minister, Justin Trudeau, announced the new Canada Emergency Wage Subsidy on March 27, 2020. This would provide a 75-per-cent wage subsidy to eligible employers for up to 12 weeks, retroactive to March 15, 2020.

Eligible Employers

Eligible employers would include individuals, taxable corporations, partnerships consisting of eligible employers, non-profit organizations and registered charities.

Public bodies would not be eligible for this subsidy. Public bodies would generally include municipalities and local governments, Crown corporations, wholly owned municipal corporations, public universities, colleges, schools and hospitals.

This subsidy would be available to eligible employers that see a drop of at least 15 per cent of their revenue in March 2020 and 30 per cent for the following months (see Eligible Periods). In applying for the subsidy, employers would be required to attest to the decline in revenue.

The government encourages all eligible employers to rehire employees as quickly as possible and to apply for the Canada Emergency Wage Subsidy if they are eligible. To ensure that the Canada Emergency Response Benefit (CERB) applies as intended, the Government will consider implementing an approach to limit duplication. This could include a process to allow individuals rehired by their employer during the same eligibility period to cancel their CERB claim and repay that amount.

Calculating Revenues

An employer's revenue for this purpose would be its revenue in Canada earned from arm's-length sources. Revenue would be calculated using the employer's normal accounting method, and would exclude revenues from extraordinary items and amounts on account of capital.

On April 8, 2020, the government is clarifying that employers would be allowed to calculate their revenues under the accrual method or the cash method, but not a combination of both. Employers would select an accounting method when first applying for the CEWS and would be required to use that method for the entire duration of the program.

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For registered charities and non-profit organizations, the calculation will include most forms of revenue, excluding revenues from non-arm's length persons. These organizations would be allowed to choose whether or not to include revenue from government sources as part of the calculation. Once chosen, the same approach would have to apply throughout the program period.

Amount of Subsidy

The subsidy amount for a given employee on eligible remuneration paid for the period between March 15 and June 6, 2020 would be the greater of:

- 75 per cent of the amount of remuneration paid, up to a maximum benefit of $847 per week; and
- the amount of remuneration paid, up to a maximum benefit of $847 per week or 75 per cent of the employee's pre-crisis weekly remuneration, whichever is less.

In effect, employers may be eligible for a subsidy of up to 100 per cent of the first 75 per cent of pre-crisis wages or salaries of existing employees. These employers would be expected where possible to maintain existing employees' pre-crisis employment earnings.

The pre-crisis remuneration for a given employee would be based on the average weekly remuneration paid between January 1 and March 15 inclusively, excluding any seven-day periods in respect of which the employee did not receive remuneration.

Employers will also be eligible for a subsidy of up to 75 per cent of salaries and wages paid to new employees.

Eligible remuneration may include salary, wages, and other remuneration like taxable benefits. These are amounts for which employers would generally be required to withhold or deduct amounts to remit to the Receiver General on account of the employee's income tax obligation. However, it does not include severance pay, or items such as stock option benefits or the personal use of a corporate vehicle.

A special rule will apply to employees that do not deal at arm's length with the employer. The subsidy amount for such employees will be limited to the eligible remuneration paid in any pay period between March 15 and June 6, 2020, up to a maximum benefit of the lesser of $847 per week and 75 per cent of the employee's pre-crisis weekly remuneration. The subsidy would only be available in respect of non-arm's length employees employed prior to March 15, 2020.

There would be no overall limit on the subsidy amount that an eligible employer may claim.

Employers are expected to make their best effort to top-up employees' salaries to bring them to pre-crisis levels.

Refund for Certain Payroll Contributions

On April 8, 2020, the Government is proposing to expand the CEWS by introducing a new 100 per cent refund for certain employer-paid contributions to Employment Insurance, the Canada Pension Plan, the Quebec Pension Plan, and the Quebec Parental Insurance Plan. This refund would cover 100 per cent of employer-paid contributions for eligible employees for each week throughout which those employees are on leave with pay and for which the employer is eligible to claim for the CEWS for those employees.

In general, an employee will be considered to be on leave with pay throughout a week if that employee is remunerated by the employer for that week but does not perform any work for the employer in that week. This refund would not be available for eligible employees that are on leave with pay for only a portion of a week.

This refund would not be subject to the weekly maximum benefit per employee of $847 that an eligible employer may claim in respect of the CEWS. There would be no overall limit on the refund amount that an eligible employer may claim.

For greater certainty, employers would be required to continue to collect and remit employer and employee contributions to each program as usual. Eligible employers would apply for a refund, as described above, at the same time that they apply for the CEWS.

Eligible Periods

Eligibility would generally be determined by the change in an eligible employer's monthly revenues, year-over-year, for the calendar month in which the period began.

On April 8, 2020, the government is announcing that all employers would be allowed to calculate their change in revenue using an alternative benchmark to determine their eligibility. This would provide more flexibility to employers for which the general approach may not be appropriate, including high-growth firms, sectors that faced difficulties in 2019, non-profits and charities, as well as employers established after February 2019. Under this alternative approach, employers would be allowed to compare their revenue using an average of their revenue earned in January and February 2020. Employers would select the general year-over-year approach or this alternative approach when first applying for the CEWS and would be required to use the same approach for the entire duration of the program

- ABC Inc. is a start-up that started its operations last September. It reported revenues of $100,000 in January and $140,000 in February, for a monthly average of $120,000. In March, its revenues dropped to $90,000. Because revenues in March are 25 per cent lower than $120,000, ABC inc. would be eligible for the CEWS for the first claiming period. To be eligible for the following claiming period, ABC Inc. revenues would have to be $84,000 or less for the month of April (that is, 30 per cent lower than $120,000).

The amount of wage subsidy (provided under the COVID-19 Economic Response Plan) received by the employer in a given month would be ignored for the purpose of measuring year-over-year changes in monthly revenues.

- For example, if revenues in March 2020 were down 20 per cent compared to March 2019, the employer would be allowed to claim the CEWS (as calculated above) on remuneration paid between March 15 and April 11, 2020.
- Alternatively, this employer could use its average revenue from the months of January and February 2020, instead of March 2019, to determine if it is eligible for the CEWS.
- Once an approach is chosen, the employer would have to apply it throughout the program period.
- The table below outlines each claiming period, the required reduction in revenue and the reference period for eligibility.

Eligible Periods	Claiming Period	Required reduction in revenue	Reference period for eligibility
Period 1	March 15 to April 11	15%	March 2020 over: • March 2019 or • Average of January and February 2020
Period 2	April 12 to May 9	30%	April 2020 over: • April 2019 or • Average of January and February 2020
Period 3	May 10 to June 6	30%	May 2020 over: • May 2019 or • Average of January and February 2020

Eligible employees

An eligible employee is an individual who is employed in Canada.

Eligibility for the CEWS of an employee's remuneration, will be limited to employees that have not been without remuneration for more than 14 consecutive days in the eligibility period, i.e., from March 15 to April 11, from April 12 to May 9, and from May 10 to June 6.

This rule replaces the previously announced restriction that an employer would not be eligible to claim the CEWS for remuneration paid to an employee in a week that falls within a 4-week period for which the employee is eligible for the Canadian Emergency Response Benefit.

How to Apply

Eligible employers would be able to apply for the CEWS through the Canada Revenue Agency's My Business Account portal as well as a web-based application. Employers would have to keep records demonstrating their reduction in arm's-length revenues and remuneration paid to employees. More details about the application process will be made available shortly.

Ensuring Compliance

In order to maintain the integrity of the program and to ensure that it helps Canadians keep their jobs, the employer would be required to repay amounts paid under the CEWS if they do not meet the eligibility requirements. Penalties may apply in cases of fraudulent claims. The penalties may include fines or even imprisonment. In addition, anti-abuse rules would be put in place to ensure that the subsidy is not inappropriately obtained and to help ensure that employees are paid the amounts they are owed.

Employers that engage in artificial transactions to reduce revenue for the purpose of claiming the CEWS would be subject to a penalty equal to 25 per cent of the value of the subsidy claimed, in addition to the requirement to repay in full the subsidy that was improperly claimed.

Interaction with 10 per cent Wage Subsidy

On March 25, 2020, the COVID-19 Emergency Response Act, which included the implementation of a temporary 10 per cent wage subsidy, received Royal Assent. For employers that are eligible for both the CEWS and the 10 per cent wage subsidy for a period, any benefit from the 10 per cent wage subsidy for remuneration paid in a specific period would generally reduce the amount available to be claimed under the CEWS in that same period.

Interaction with the Work-Sharing Program

On March 18, 2020, the Prime Minister announced an extension of the maximum duration of the Work-Sharing program from 38 weeks to 76 weeks for employers affected by COVID-19. This measure will provide income support to employees eligible for Employment Insurance who agree to reduce their normal working hours because of developments beyond the control of their employers.

For employers and employees that are participating in a Work-Sharing program, EI benefits received by employees through the Work-Sharing program will reduce the benefit that their employer is entitled to receive under the CEWS.

Government Assistance

The usual treatment of tax credits and other benefits provided by the government would apply. As a consequence, the wage subsidy received by an employer would be considered government assistance and be included in the employer's taxable income.

Assistance received under either wage subsidy would reduce the amount of remuneration expenses eligible for other federal tax credits calculated on the same remuneration.

How employers will benefit from the CEWS

Maude and Stéphane own a corporation that operates an automobile repair shop in Saint Boniface, Manitoba. They are working full time, each drawing a salary of $1,300 per week, and have three part-time employees, each earning $800 per week, for a total weekly payroll of $5,000. Maude and Stéphane have reduced their opening hours due to decreased demand for their services. They had initially laid off their employees, but they have now decided to re-hire them following the announcement of the Canada Emergency Wage Subsidy. Their employees are not being asked to report to work during this challenging period.

Maude and Stéphane are now keeping their employees on the payroll, paying them 75 per cent of their pre-crisis salary ($600 per week). Maude and Stéphane would be eligible for a weekly wage subsidy of $3,494 ($847 for each of themselves and $600 for each of their employees). Maude and Stéphane would also be eligible for a 100-per-cent refund of their employer-paid contributions to Employment Insurance and the Canada Pension Plan in respect of their employees, providing an additional benefit of up to $124 per week.

At the end of each claiming period, Maude and Stéphane would submit an application through the Canada Revenue Agency portal, attesting that their decline in revenues in each month is sufficient to qualify, when compared to the average of January and February. They would also report the total remuneration paid to themselves and their furloughed employees during the month. As Maude and Stéphane have access to direct deposits with the Canada Revenue Agency, they would receive their subsidy shortly after each application.

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