



TaxNewsFlash Canada

Employers — Canada's 75% Wage Subsidy Now Enacted

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Canada has enacted the Canada Emergency Wage Subsidy to help businesses retain employees during COVID-19. This temporary subsidy, which is available to qualifying employers that have lost revenue due to COVID-19, generally provides an amount to employers equal to 75% of employees' remuneration paid, up to a maximum of \$847 per week per employee, from March 15, 2020 to June 6, 2020. The legislation for the subsidy, which was passed into law on April 11, 2020, confirms many details of the program that were already known, and provides additional guidance on how employers can qualify for the subsidy. In particular, the new rules clarify the calculation of a decrease in revenue, including for amounts derived from non-arm's length persons or partnerships, and outline how employers must attest to their eligibility. The rules also provide details on how employers that qualify for the Canada Emergency Wage Subsidy may also receive a 100% refund for certain employer-paid contributions.

Now that the government has enacted the 75% Canada Emergency Wage Subsidy, as well as the 10% Temporary Wage Subsidy for certain small businesses, affected employers should act quickly to determine whether they qualify for these subsidies and start the application process. Our experienced professionals can help your organization understand the nuances of each program, including determining eligibility and supporting your claim. To assist you with imminent staffing decisions, this edition of *TaxNewsFlash-Canada* offers a full overview of the rules for the Canada Emergency Wage Subsidy, including details on which employers qualify for the subsidy, how much the subsidy provides, calculating a decrease in revenue and how to apply.

Background

In response to COVID-19, Canada made a series of announcements that it would enact targeted fiscal and tax relief intended to support individuals and businesses. Among

other measures, Canada proposed changes to accelerate Employment Insurance (EI) sickness benefits, make additional credit available to businesses, and introduce a Canadian Emergency Response Benefit to help individuals. In addition, the CRA announced that it would delay various tax filing and remittance deadlines for taxpayers.

The government also announced temporary wage subsidies for businesses. The Canada Emergency Wage Subsidy is a temporary 12-week subsidy that will generally provide an amount to employers equal to 75% of employees' remuneration paid, up to a maximum of \$847 per week per employee. The government stated that the subsidy is available for eligible employers that have lost revenue due to COVID-19, and will apply retroactively from March 15, 2020 to June 6, 2020.

In addition, eligible employers who do not qualify for the Canada Emergency Wage Subsidy may be able to claim the previously enacted 10% temporary wage subsidy to help certain small businesses. This temporary three-month taxable subsidy is available on up to 10% of eligible employee salaries and is restricted to individuals, eligible Canadian-controlled private corporations, certain partnerships, registered charities and not-for-profits. This subsidy will provide 10% of remuneration paid from March 18 to before June 20, 2020, up to a maximum subsidy of \$1,375 per employee and \$25,000 per employer. The subsidy was included with other COVID-19 emergency measures passed into law on March 25, 2020.

For details, see *TaxNewsFlash-Canada* 2020-10, "[Tax Measures Included in Canada's COVID-19 Response](#)", *TaxNewsFlash-Canada* 2020-11, "[Fiscal Relief on the Way Following COVID-19 Concerns](#)", *TaxNewsFlash-Canada* 2020-14, "[COVID-19 — Tax Deadline Delay and More Relief Announced](#)", *TaxNewsFlash-Canada* 2020-29, "[Federal COVID-19 Relief — More Details Released](#)", *TaxNewsFlash-Canada* 2020-35, "[Employers — Canada Provides Details of 75% Wage Subsidy](#)" and *TaxNewsFlash-Canada* 2020-38, "[Employers — Canada Eases Access to 75% Wage Subsidy](#)".

Eligibility for the wage subsidy

Employers that qualify for the wage subsidy must meet the definition of an "eligible entity" under the rules and experience a decrease in revenue due to COVID-19. Eligible entities consist of:

- Individuals
- Taxable corporations
- Non-profit organizations
- Registered charities
- Partnerships, all the members of which are eligible entities.

In addition, eligible employers must also have had a business number on March 15, 2020 to make employee remittances to the CRA.

Certain public institutions are not eligible for the subsidy, including:

- Municipalities and local governments, crown corporations and wholly owned municipal corporations
- Public universities, colleges, schools and school boards
- Hospitals and health authorities.

Eligible employees

To be considered an eligible employee under these rules, an individual must be employed in Canada and must not have 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).

The subsidy is also available for employees who do not deal at arm's length with the employer, as long as they are employed prior to March 15, 2020, as well as new employees.

KPMG observations

It appears that the government has revised its approach on eligibility for individuals. Previously, the government announced that the subsidy would not be available for remuneration paid to an employee in a week that falls within a four-week period for which the employee is also eligible for the Canadian Emergency Response Benefit (CERB).

The new rules for the wage subsidy do not include any details on potential duplication with the CERB. However, the government previously indicated that it is considering limiting duplication, which 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.

Subsidy on eligible remuneration

The new Canada Emergency Wage Subsidy is available on weekly eligible remuneration of an eligible employee paid between March 15, 2020 and June 6, 2020. The subsidy is the greater of:

- 75% of eligible remuneration paid, up to a maximum of \$847 per week (or nil in the case of a non-arm's length employee), or

- The lesser of either:
 - The eligible remuneration paid, up to a maximum of \$847 per week, or
 - 75% of the employee's baseline weekly remuneration

Baseline remuneration is defined as the "pre-crisis" remuneration for a given employee, which is equal to the average weekly eligible remuneration paid between January 1 and March 15, 2020 inclusively, excluding any seven-day periods for which the employee was not remunerated. In effect, employers could qualify for a subsidy of 75% of the baseline remuneration of existing employees, to a maximum of \$847 per week, in certain situations. Note that, where employees do not deal at arm's length with the employer, the subsidy amount for these 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 \$847 per week or 75% of the employee's baseline weekly remuneration.

Employers that receive the subsidy are expected to make their "best effort" to maintain existing employees' employment earnings, where possible, and there is no overall limit on the subsidy amount that an eligible employer may claim.

Note that, because the wage subsidy is considered to be government assistance, it must be included in an employer's taxable income. As a result, this assistance also reduces the amount of remuneration expenses eligible for other federal tax credits calculated on the same remuneration.

Eligible remuneration

For purposes of claiming the subsidy, eligible remuneration includes:

- Salary
- Wages
- Other remuneration from which employers would generally be required to withhold or deduct amounts to remit to the CRA (such as taxable benefits)
- Certain fees, commissions and other amounts for services earned.

The rules also exclude certain amounts from eligible remuneration, including:

- Retiring allowances and stock option benefits
- Amounts that can reasonably be expected to be paid or returned, directly or indirectly to either:
 - The employer

- A person or partnership not dealing at arm's length with the employer, or
- Another person or partnership at the direction of the employer.
- Certain amounts that are paid in respect of a week in the qualifying period that are part of an arrangement involving the employer and the eligible employee, where:
 - The amount is in excess of the employee's baseline remuneration
 - After the qualifying period, the employee is reasonably expected to be paid a lower weekly amount than their baseline remuneration
 - One of the main purposes for the arrangement is to increase the amount of the subsidy.

KPMG observations

In some cases, the Canada Emergency Wage Subsidy may interact with other government programs that provide assistance during COVID-19. Where employers are eligible for both the Canada Emergency Wage Subsidy and the previously announced 10% temporary wage subsidy for a period, the rules provide that any benefit from the 10% wage subsidy for remuneration paid in that period will generally reduce the amount the employer can claim under the Canada Emergency Wage Subsidy in that same period.

In addition, the government clarified that EI benefits received by employees through the Work-Sharing program will reduce the benefit that their employer is entitled to receive under the subsidy.

Calculating revenue decreases

To qualify for the subsidy, eligible employers must attest that they have experienced at least a 15% drop in qualifying revenue in March 2020, and at least a drop of 30% in qualifying revenue for April or May 2020. However, employers that qualify for a specific claiming period automatically qualify for the next period. For example, an eligible employer with a revenue drop of at least 15% in March 2020 would qualify for the March 15 to April 11, 2020 period as well as the April 12 to May 9, 2020 period while an employer with a revenue decrease of at least 30% in April 2020 would qualify for the April 12 to May 9, 2020 period and the May 10 to June 6, 2020 period.

Reference period options

Employers can choose between two different methods to calculate the decline in revenue. Specifically, employers can compare their revenue to the same monthly period in 2019, or can choose to instead use an average of revenue for January and February 2020 to show the reduction. Once employers decide how to show their revenue decline, they must use the same method throughout the program. Employers not carrying on a business or

otherwise carrying on its ordinary activities on March 1, 2019 must calculate the drop using an average of revenue for January and February 2020.

The revenue decrease is calculated as follows:

Claim period	Eligibility
March 15 to April 11, 2020 (15% required reduction in revenue)	<ul style="list-style-type: none"> Refer to reference period of March 2020 over either: <ul style="list-style-type: none"> March 2019, or Average of January and February 2020
April 12 to May 9, 2020 (30% required reduction in revenue)	<ul style="list-style-type: none"> Qualify for the March 2020 period, or Refer to reference period of April 2020 over either: <ul style="list-style-type: none"> April 2019, or Average of January and February 2020
May 10 to June 6, 2020 (30% required reduction in revenue)	<ul style="list-style-type: none"> Qualify for the April period, or Refer to reference period of May 2020 over either: <ul style="list-style-type: none"> May 2019, or Average of January and February 2020

Accounting method options

To calculate the decline in qualifying revenue, employers must use their normal accounting method. For purposes of this calculation, qualifying revenue is defined as the inflow of cash, receivables or other consideration arising in the course of the ordinary activities of the eligible entity in Canada in a particular period, and excludes revenues from extraordinary items. Qualifying revenues also generally exclude amounts derived from non-arm's length persons or partnerships, subject to certain exceptions. When comparing year-over-year changes in monthly revenues, employers should not include the amount of the 10% Temporary Wage Subsidy or the 75% wage subsidy that they receive in a given month.

Eligible employers can also measure revenues on the basis of accrual accounting or elect to use cash accounting to determine this decline, but not a combination of both. In addition, once employers select an accounting method, they must apply it throughout the program.

Affiliated entities, joint ventures and non-arm's length transactions

Special rules may apply to affiliated groups of entities, joint ventures and entities that receive qualifying revenues from one or more non-arm's length persons or partnerships. Where a group of eligible entities normally prepares consolidated financial statements, each member of the group may determine its qualifying revenue separately, provided every member of the group determines its qualifying revenue on that basis. In addition, if an eligible entity and each member of an affiliated group of eligible entities of which the eligible entity is a member jointly elect, the qualifying revenue of the group determined on a consolidated basis in accordance with relevant accounting principles is to be used for each member of the group. Also, if all the interests in an eligible entity are owned by participants in a joint venture and all or substantially all of the eligible entity's qualifying revenues is in respect of the joint venture, then the eligible entity may use the joint venture's qualifying revenues instead of its own for the purpose of the revenue drop calculation.

Special rules may also apply where all or substantially all of an eligible entity's qualifying revenues (if those revenues were to include non-arm's length transactions) are from one or more non-arm's length persons or partnerships, and a joint election is made. In certain situations, the revenue of the non-arm's length person or partnership may be considered in the determination of whether the eligible entity meets the decrease in revenue test.

Charities and NPOs

Charities and non-profit organizations (NPOs) also have special provisions to calculate the revenue decrease. Specifically, these employers must include most forms of revenue in the calculation, excluding revenues from non-arm's length persons and partnerships. Registered charities must include revenue from a related business, gifts and other amounts included in the course of its ordinary activities. NPOs must include revenue from membership fees and other amounts received in the course of its ordinary activities. These organizations can choose whether to include funding from government sources as part of the calculation, but cannot change their approach throughout the program period.

Employer contributions — Refund for eligible businesses

Eligible employers that qualify for the Canada Emergency Wage Subsidy may also receive a 100% refund for certain employer-paid contributions to Employment Insurance (EI), the Canada Pension Plan, the Quebec Pension Plan and the Quebec Parental Insurance Plan. This refund applies to the entire amount of employer-paid contributions for eligible employees for each week that these employees are on leave with pay, and the employer is eligible to claim the subsidy for those employees.

Although not stated in the legislation, the government has announced that an employee is 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. However, this refund is not available for eligible employees that are on leave with pay for only a portion of a week. This refund is not subject to the employer's weekly maximum benefit per employee of \$847, and there is no overall limit on the refund amount that an eligible employer may claim.

To obtain this refund, eligible employers must continue to collect and remit employer and employee contributions to each program as usual, and then apply for a refund when applying for the Canada Emergency Wage Subsidy.

How to apply

To claim the Canada Emergency Wage Subsidy, an eligible employer must file a prescribed form with the CRA for the qualifying period before October 2020 (the prescribed form is not yet available). The form can be filed via the CRA's *My Business Account* portal and an online portal that will be available in the coming weeks. To receive the subsidy, the government says that employers must keep records demonstrating their reduction in arm's-length revenues and remuneration paid to employees. In addition, an individual who has principal responsibility for the financial activities of the employer must attest that the application for the wage subsidy is complete and accurate in all material aspects.

More details about the application process are expected soon.

KPMG observation

Under the rules, the government is allowed to make the name of any person or partnership that makes an application of the wage subsidy publically available, in any manner that it considers appropriate.

Penalties

Employers that engage in artificial transactions to reduce revenue to claim the subsidy would be subject to a penalty equal to 25% of the value of the subsidy claimed, and must also fully repay the subsidy that was improperly claimed.

Penalties may apply in cases of fraudulent claims. The penalties may include fines or even imprisonment.

KPMG observation

The legislation is drafted to provide flexibility should the government need to extend the subsidy beyond the current expiry of June 6, 2020 up to September 30, 2020.

An action plan for your business — We can help

While businesses may qualify for benefits under both 75% Canada Emergency Wage Subsidy, as well as the 10% Temporary Wage Subsidy, understanding the nuances of each program, determining eligibility, and avoiding government penalties if your application is later deemed invalid, can create uncertainty.

As your trusted advisors, we're here to help. Because every business is unique, our experienced professionals may be able to assist you with establishing that the

methodology you use to determine eligibility is consistent with similar organizations in your sector and across Canada. We can provide various levels of assistance to help you determine that you've assembled the appropriate documentation to support your claims, ranging from accounting advice and assistance, a specific procedures report or an audit report on financial information.

These subsidies may play a critical role in your imminent staffing decisions, so do not hesitate to reach out to us to discuss an action plan for your organization. Together, we can help your organization navigate these unprecedented times.

Stay connected on the latest COVID-19 developments

We continue to watch tax and legal issues related to the evolving COVID-19 situation and will provide further information as it becomes available. For the latest developments, see our dedicated COVID-19 site, [The Business Implications of Coronavirus](#).

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