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Global Tax Alert

News from EY Americas Tax

Canada announces changes to Emergency Wage Subsidy program

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Executive summary

In order to prevent layoffs and as part of its COVID-19 Economic Response Plan, on 18 March 2020, Canada's Federal Government introduced a wage subsidy program for eligible small employers. This program provided a 10% wage subsidy in the form of a reduction in income tax remittances paid to the Canada Revenue Agency (CRA) (subject to a cap). Further details of this 10% wage subsidy were released as part of Bill C-13, *COVID-19 Emergency Response Act*, which was enacted on 25 March 2020 (see EY Global Tax Alert, [Canada introduces Federal Wage Subsidy Program](#), dated 27 March 2020).

On 1 April 2020, Finance Minister Bill Morneau provided updates to the wage subsidy program, introducing a new program called the Canada Emergency Wage Subsidy (the Wage Subsidy), which will co-exist with the original 10% wage subsidy. This Wage Subsidy program would provide a 75% wage subsidy to employers who have suffered a drop in gross revenues of at least 30% in March, April or May, when compared to the same months in 2019 (see EY Global Tax Alert, [The Canada Emergency Wage Subsidy](#), dated 3 April 2020).

On 8 April 2020, the Finance Minister announced significant changes to this program.

This Alert summarizes the changes to the Wage Subsidy, specifically to the requirement that there be a 30% reduction in gross revenues for employers to be eligible for the program.

At the time of writing, no draft legislation has been released yet. It is expected that Parliament will be recalled shortly and a bill will be tabled and adopted. Accordingly, there may be further changes to the program before it becomes law.

Detailed discussion

Calculating reduction in gross revenues

One of the major changes announced is that the Wage Subsidy will be available to eligible employers that see a drop of at least 15% of their arm's-length source revenue in March 2020 and 30% for the following months (April and May 2020) (exact claim periods are set out below).

Also announced are changes to the method of calculating the change in revenues. When calculating the change in revenues to determine if an employer qualifies for one of the three particular claim periods, employers are allowed to use one of two benchmarks: an average of their revenue earned in January and February 2020, or their revenue earned in the same month of the previous year. For example, if the remuneration for which the subsidy is claimed is paid in the 15 March to 11 April 2020 claim period, the comparison of revenue should be March 2020 over March 2019, or March 2020 over the average for January and February 2020. Whichever benchmark employers select, they will be required to use the same approach for the duration of the program.

Further, it has been clarified that employers may calculate their revenues using either the accrual or the cash method. As above, whichever method employers select, they will be required to use the same approach for the duration of the program.

Special rules will be provided to address issues for corporate groups, non-arm's length entities and joint ventures.

When calculating revenues for non-profit organizations and registered charities, revenues from non-arm's length persons are excluded, but the organizations will be allowed to choose whether or not to include revenue from government sources as part of the calculation. Whichever approach is chosen, it must be maintained throughout the program.

These changes were implemented to allow a broader range of businesses (such as start-ups, high-growth businesses and businesses with inconsistent monthly revenues) to access the Wage Subsidy.

For further information about the former calculation procedure, see EY Global Tax Alert, [The Canada Emergency Wage Subsidy](#), dated 3 April 2020.

Subsidy amount

The Wage Subsidy amount each week for a given employee on eligible remuneration paid for the period of the program (15 March - 6 June 2020) would be the greater of:

- ▶ 75% of the remuneration paid (up to CA\$847¹)
- ▶ The lesser of the amount of remuneration paid (up to \$847) and 75% of the employee's pre-crisis weekly remuneration (defined as that particular employee's average weekly remuneration from 1 January to 15 March 2020)

Refund for certain payroll contributions

The Wage Subsidy has been expanded to include a 100% refund for certain employer-paid contributions to Employment Insurance (EI), Canada Pension Plan, Quebec Pension Plan and the Quebec Parental Insurance Plan. The refund covers the contributions made by employers for each week applicable employees are on leave **with pay** (where the employer is eligible to claim the Wage Subsidy). This expansion removes the incremental costs to employers for keeping their employees over laying them off.

An employee is considered to be on leave with pay if they receive remuneration from the employer for the week but do not perform work. The refund is not available for employees that are only on leave for part of a week.

Employers are still required to withhold and remit employer and employee contributions to the above-noted programs as usual, but may thereafter apply for the refund. The refund is separate from the \$847 maximum benefit amount that employers can claim in respect of the Wage Subsidy, and there is no overall limit to the refund that an eligible employer may claim.

Interaction with other programs and/or measures

The Finance Minister noted a process will also be implemented to avoid duplicate benefit payments from the Wage Subsidy and the Canada Emergency Response Benefit in relation to the same employee. The two programs pay benefits over specific periods (weekly versus approximately every four weeks). Specifically, no Wage Subsidy is available for remuneration paid to an employee that has been without remuneration for more than 14 consecutive days in the relevant claim period (i.e., from 15 March to 11 April, from 12 April to 9 May, and from 10 May to 6 June). He also indicated that they will be considering a process to allow employers to rehire employees such that those employees may cancel their benefits under the Canada Emergency Response Benefit and repay that amount.

For employers participating in the federal Work-Sharing program, EI benefits received by employees through that program will reduce the benefit the employer is entitled to under the Wage Subsidy.

Penalties

Employers will be required to repay amounts paid to them under the Wage Subsidy if they do not meet the eligibility requirements. Further, abuse of the Wage Subsidy program may result in a penalty of up to 25% of the benefit received (plus full repayment) according to [Finance](#) and up to five years imprisonment.

Unchanged components of the Wage Subsidy

The following nuances of the Wage Subsidy remain unchanged (for more details see EY Global Tax Alert, [The Canada Emergency Wage Subsidy](#), dated 3 April 2020):

- ▶ The Wage Subsidy is available to employers of all sizes, across all sectors of the economy (including non-profit organizations, registered charities, and partnerships consisting of eligible employers) with the exception of public sector entities.
- ▶ Claim periods remain unchanged: 15 March - 11 April; 12 April - 9 May; and 10 May - 6 June.
- ▶ Eligible remuneration includes salary, wages and other remuneration for which the employer would generally be required to withhold income tax. Eligible remuneration does not include retiring allowances, stock option benefits or benefits relating to the personal use of an employer-owned vehicle.
- ▶ The Wage Subsidy represents a maximum benefit of \$847 per week per employee (applying at a rate of 75 % on the first \$58,700 of eligible remuneration per employee). The program will be in place for a 12-week period, from 15 March to 6 June 2020. 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 15 March and 6 June 2020, up to a maximum benefit of \$847 per week or 75% of the employee's pre-crisis weekly remuneration, whichever is less. Note, however, that the subsidy will only be available in respect of non-arm's length employees employed prior to 15 March 2020.
- ▶ Employers do not appear to be subject to a maximum subsidy. The lack of dollar maximums per employer is consistent with the Government's stated intention to make the Wage Subsidy available to employers large and small.
- ▶ While the Wage Subsidy will be paid directly to employers, it is expected that the entire amount of the Wage Subsidy is to be delivered to employees. Employers who fail to do so could face harsh penalties.
- ▶ The Government has stated that employers accessing the Wage Subsidy are expected to use best efforts to top up salaries to 100% of the maximum wages covered (i.e., pay 100% of salary up to \$58,700). It is unclear, however, to what lengths employers are required to go to discharge this "best efforts" requirement.
- ▶ Eligible employers will be able to apply for the Wage Subsidy through the CRA's My Business Account portal as well as a web-based application. Employers would have to keep records demonstrating their reduction in revenues and remuneration paid to employees. More details about the application process will be available shortly.
- ▶ The Wage Subsidy and the 10% wage subsidy will co-exist. Amounts from the 10% subsidy paid in a claim period would generally reduce the amount claimable under the Wage Subsidy for the same period.
- ▶ The Wage Subsidy is required to be included in income of the employer.

Endnote

1. Currency references in this Alert are to the CA\$.

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