

Applications Open for the Canada Emergency Wage Subsidy on April 27, 2020

Date : April 23, 2020

As part of Canada's COVID-19 Economic Response Plan, the federal government introduced the Canada Emergency Wage Subsidy (the "CEWS"), designed to assist employers in continuing to pay their employees and avoiding lay-offs during the COVID-19 pandemic. As announced earlier this month, the CEWS will provide eligible employers with a wage subsidy of up to 75% for a 12-week period from March 15, 2020 to June 6, 2020.

On April 11, 2020, Parliament passed Bill C-14, [the COVID-19 Emergency Response Act, No. 2](#) ("Bill C-14") during an emergency sitting. It received Royal Assent on the same day. Bill C-14 makes amendments to the *Income Tax Act* and the *Financial Administration Act* to capture details of the CEWS that were conveyed by the federal government when the CEWS was announced, and covered in detail in an earlier Focus Alert (see [Federal Government Introduces Increased Canada Emergency Wage Subsidy](#)). Bill C-14 also incorporates updates to the CEWS that were announced by the federal government on April 8, 2020 in its [Additional Details on the Canada Emergency Wage Subsidy](#) background.

The federal government announced on April 21, 2020 that applications will open for the CEWS on April 27, 2020, discussed below.

In addition to the passing of Bill C-14, the federal government has also recently announced temporary changes to Canada's Summer Jobs Program.

CEWS – Eligible Employers

Eligible employers include individuals, taxable corporations, partnerships, non-profit organizations, and registered charities who have experienced a decrease in revenues of at least 15% in March and experience decreases of 30% in April and May 2020 and whose employees remain on the payroll. This does not mean that employees have to be performing work. Rather, employees who are unable to perform work for their employer can be designated as though they are on a paid leave of absence, part of which is subsidized by the CEWS.

Eligible employees are those that are employed in Canada and have been paid wages by the Employer for a period of 14 or more consecutive days during the relevant eligibility period.

Employers who have already laid off their employees in response to decreases in revenue from

COVID-19 may want to recall their employees in order to benefit from the CEWS. For employers who are subsidizing their employees' Employment Insurance benefits by way of a Supplemental Unemployment Benefit Plan ("SUB Plan"), any changes to the SUB Plan, including cancellation, must be communicated to Service Canada within 30 days of the change.

Calculating Revenues

Although the federal government previously stated that employers would be required to calculate their revenue using their normal accounting method, employers now have the choice between calculating their revenues under the accrual method or the cash method, but not a combination of both. An employer will be required to use whichever method it used when applying for the CEWS, for all subsequent qualifying periods.

For registered charities and non-profit organizations, Bill C-14 specifies that the calculation of revenues will include most forms of revenue. These organizations are permitted to elect whether or not to include revenue from government sources in the calculation. Once a choice has been made, the organization will have to apply the same approach for all subsequent qualifying periods.

Calculating Pre-Crisis Weekly Remuneration

The subsidy amount for an eligible employee on "eligible remuneration" will be the greater of:

- 75% 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% of the employee's pre-crisis weekly remuneration, whichever is less.

Bill C-14 refers to the pre-crisis remuneration as the "baseline remuneration" and specifies that it will be calculated based on an eligible employee's average weekly remuneration for the period of January 1 to March 15. Any period of seven consecutive days or more during which the employee did not receive remuneration will be excluded.

Eligible remuneration includes salary, wages and other remuneration including fees, commissions, and certain taxable benefits, with some exceptions. These are amounts for which employers are generally 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, retiring allowances, or items such as stock option benefits or the personal use of a corporate vehicle.

Calculating Reduction in Revenues

The federal government initially announced that to qualify for the CEWS, an employer with one or more employees in Canada would have to show that their gross revenues had fallen by at least 30% due to COVID-19. This would have required employers to demonstrate a reduction by comparing their revenues from business carried on within Canada for each month during which they benefit from the subsidy, with that same month in the previous year. It is important to note that the claim periods are from:

- March 15 to April 11;
- April 12 to May 9; and
- May 10 to June 6.

Under Bill C-14, **employers have the option of comparing their revenues to a “prior reference period” consisting of the same month in 2019 or their average revenues from January and February 2020.** Employers will have to decide between these two options when they first apply for the CEWS and will be required to use the same approach for the entire duration of the program.

Further, employers are now only required to show a decrease of 15% in gross revenues for March, in recognition of the fact that many employers did not see the impact of the pandemic until the middle of March. Employers will still be required to demonstrate a 30% decrease to receive the CEWS in April and May. Bill C-14 institutes a deeming rule, meaning that once an employer qualifies for a particular period, they are deemed to meet the conditions in respect of the following qualifying period.

Refund for Certain Payroll Contributions

Bill C-14 introduces a new 100% refund of employer-paid contributions to benefits and programs such as Employment Insurance (“EI”), the Canada Pension Plan, the Quebec Pension Plan, and the Quebec Parental Insurance Plan. The refund fully covers employer-paid contributions for eligible employees for each full week that employees are on leave with pay and for which the employer is eligible to claim for the CEWS for those employees. To clarify, this refund is not available with respect to employees who are performing work for the employer, only those who are on a paid leave. There will be no overall limit on the refund amount that an eligible employer may claim.

Interaction with the Work-Sharing program

Under the new legislation, EI benefits received by employees through the Work-Sharing program will reduce the benefit that employers are entitled to receive under the CEWS.

Interaction with the Canada Emergency Response Benefit

The federal government has stated that in order to limit duplication and ensure the Canada Emergency Response Benefit (“CERB”) works as intended, it may implement a process to allow individuals rehired by their employer during the same eligibility period to cancel their CERB claim and repay that amount.

Penalties for Fraudulent Claims

The federal government has specified that in addition to the requirement to repay in full the subsidy that was improperly claimed, employers that engage in artificial transactions in order to reduce revenue for the purpose of claiming the CEWS will be subject to a penalty equal to 25% of the value of the subsidy claimed.

Applying for the CEWS

Eligible employers will be able to apply for the CEWS online either through the CRA’s My Business Account portal, or an online application form. Applications will be available as of April 27, 2020 and all applications received between April 27 and May 3, 2020 will be processed on May 4, 2020. Successful applicants can expect to receive their money in the first two weeks of May.

Before applying, employers are encouraged to use the CRA’s [CEWS calculator](#) in order to determine the amount of the subsidy they will be eligible to receive. According to the CRA, the print out from the CEWS calculator will help speed up the application process. More information on how to apply can be found [here](#).

Canada Summer Jobs Program

In addition to the updates regarding the CEWS and the passing of Bill C-14, the government also recently announced temporary changes to the Canada Summer Jobs program.

Private and public sector employers who hire youth employees under this program are usually limited to a subsidy of up to 50% of the provincial or territorial minimum wage for each youth employee. In light of current circumstances, the federal government announced on April 8, 2020 that employers that hire youth will receive a wage subsidy of up to 100% of the provincial or territorial minimum hourly wage for each youth employee. The federal government also announced that the end date for employment for youth will be extended to February 28, 2021.

In Our View

The implementation of Bill C-14 and updates to the CEWS offer more flexibility, and as a result, a larger number of employers will be able to rely on the CEWS to rehire laid-off employees or to continue employing current employees. The new options of comparing revenues to those in January and February 2020, instead of having to rely on 2019, will also help new and developing employers to qualify for the CEWS. The change from a 30% reduction to a 15% reduction in revenues for March will also help employers who may not have otherwise qualified as they were not impacted by the COVID-19 pandemic during the first half of March. The option to choose between accrual and cash accounting methods also allows employers to calculate revenues in the manner that they feel most accurately reflects their reduction.

In making these changes to the CEWS, the federal government has recognized that not all employers operate in the same manner, and that flexibility is necessary.

The announced temporary changes to the Summer Jobs Program will also allow more flexibility by permitting employers to adapt in order to support essential services and to hire youth employees on a part-time basis.

Emond Harnden LLP will continue to monitor relevant information on the Canada Emergency Wage Subsidy as it becomes available to assist employers in navigating the ongoing pandemic.

For further information or advice on your rights and obligations as an employer when dealing with COVID-19 and similar issues, please contact [J.D. Sharp](#) at [613-940-2739](tel:613-940-2739), [Colleen Dunlop](tel:613-940-2734) at [613-940-2734](tel:613-940-2734), [Kecia Podetz](tel:613-940-2752) at [613-940-2752](tel:613-940-2752), [Steven Williams](tel:613-940-2737) at [613-940-2737](tel:613-940-2737), [Carolyn Dunlop](tel:613-940-2760) at [613-940-2760](tel:613-940-2760), [Lauren Jamieson](tel:613-563-7660) at [613-563-7660](tel:613-563-7660) ext. 236 or [Erica Bennett](tel:613-940-2748) at [613-940-2748](tel:613-940-2748).