

COVID-19 FEDERAL SUPPORT & BENEFITS FOR BUSINESS

COVID-19 AND THE THREAT TO CANADIAN BUSINESS

The development of the worldwide COVID-19 pandemic has left businesses in Canada in a precarious position financially. There is significant concern that

“We know that businesses want to support their employees during this difficult time. We will be there to help” – *Finance Minister Bill Morneau*

many businesses will not survive the lengthy period of

mandated isolation with revenues grinding to a trickle or an outright halt. Governments are working to provide income and capital supports to allow businesses to maintain their employee base and to continue a level of operations through this crisis. We have summarized the federal support programs available to business and hope you will find this helpful as you work to navigate your business through these difficult times. We will summarize the provincial programs in a future newsletter.

FEDERAL SUPPORTS

Benefits to Support Employers and Employees

The federal government has instituted five significant support programs totaling \$105.5 billion over the next 12 weeks. Here is a brief summary of these programs and their eligibility criteria:

Canada Emergency Wage Subsidy (CEWS)

Formally announced by Finance Minister Bill Morneau on April 1, 2020, this program is designed as a direct subsidy paid from the federal government to qualifying businesses of all sizes in order to “help businesses keep and return workers to their payroll through the challenges posed by the COVID-19 pandemic”¹. This measure has been announced by way of a “News Release” which, of course, does not have the “force of law”. Much of the technical detail is lacking and we continue to wait for the release of draft legislation that would provide us with the necessary details to properly analyze and advise on this program. However, we are in unprecedented times and time is of the essence for all businesses – so here is what we know so far:

Eligibility:

¹ *The Canada Emergency Wage Subsidy*; The Department of Finance – News Release; April 1, 2020

This subsidy will be available to virtually all employers including proprietors, corporations, partnerships, non-profit organizations and registered charities. The common requirement is that whatever the entity type, the employer **MUST** have had a valid and open payroll account (RP-account) with the Canada Revenue Agency on March 15, 2020. If the entity did not have a payroll account on that day, it would not be eligible for the subsidy program. Publicly traded corporations and public sector bodies (i.e. municipalities, local governments, universities, schools, hospitals, etc.) are not eligible for the subsidy. The most significant eligibility requirement is the realization of a 30% or more decline in the gross revenue of the employer on a year-over-year basis for the particular period.

Calculation of the Decline in Revenue:

The employer must calculate whether or not their **gross revenues** have declined 30% or more when compared against the same period in the previous year. This will always be a backwards-looking calculation and will continue to pose challenges for the timing of the receipt of the subsidy support. This means that an applicant would calculate the revenue decline and apply in April for the March period and so on. The Department of Finance has indicated that “[A]n employer’s revenue for this purpose would be its revenue from its business carried on 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”². This is the aspect of the program that will likely be the most challenging and the source of potential mischief. The Finance Minister and the Prime Minister have both warned that there will be significant penalties for those who attempt to “game the system”. As we have no draft legislation at this time, we cannot comment on the anti-avoidance provisions that might be contemplated or the quantum of the penalties that might be imposed.

Amount of the Subsidy:

Provided the employer meets the qualifying criteria, they will be eligible to receive a subsidy **for each employee** on **eligible remuneration** paid between March 15 and June 6, 2020 and it will be provided as 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.

Some interesting aspects of this subsidy:

1. Employers are being “encouraged” to make their “best effort” to top up employees to their pre-crisis employment earnings. There is going to be an “attestation” requirement that you have made this effort to do so. Again – no legislation means uncertainty as to what this means.
2. This subsidy will apply to **new employees**. The only requirement is that the employer had a payroll account with CRA on March 15, 2020.
3. The Department of Finance has defined **eligible remuneration** to capture everything paid to an employee with the exception of severance pay, stock option benefits or taxable automobile benefits. Commissions, bonuses and other such remuneration is included.
4. A special rule exists for **non-arm’s-length employees**. This would include owner-manager shareholders and related persons (**Spouses, etc.**) who have either received wages/salary from their corporation or who have previously only received dividends as remuneration. The corporation must have a payroll account in order for the owner-manager to receive the subsidy. Once again, the devil is in the details and we anticipate there may be additional criteria for owner-managers in the proposed legislation.
5. There is no overall limit on the amount of the total subsidy claim (i.e. there is no cap on the number of employees).

² *ibid*

Eligible Periods:

The eligible periods over which the employer must calculate the change in gross revenue are as follows:

	Claiming period	Reference period
Period 1	March 13-April 11	March '20 vs. March '19
Period 2	April 12-May 9	April '20 vs. April '19
Period 3	May 10-June 6	May '20 vs. May '19

Any amounts received under the *Temporary Wage Subsidy* would not be included in the determination of gross income for any period. However, we understand that if a business applied for and received the TWS and subsequently qualifies for the CEWS, the amounts received under the CEWS would be reduced accordingly. In short, a business may take advantage from one program or the other (TWS or CEWS) but not both.

Application Process & Timing

This aspect of the program is probably the most disappointing. A business seeking the subsidy must apply **each month** and must attest that they qualify with respect to the 30% decline in gross revenue for the period. Each employer must apply through their CRA *My Business Account* portal or through a yet-to-be-delivered web portal. The best guess by the Minister of Finance is that the application portal will be open in approximately 3 – 6 weeks and that the subsidy should start flowing approximately 6 weeks after application – which may certainly be simply too late for many businesses. This heavy administrative burden is also very disappointing as this crisis demands a swift and efficient response to ensure that businesses in Canada remain viable through to the other side of this pandemic.

Please do not hesitate to contact us if you require assistance with the determination of the periodic change in your gross business income or the application process.

Temporary Wage Subsidy (TWS)

The predecessor to the CEWS, this is a “subsidy” funded entirely by the employer. Eligible employers are individuals (excluding trusts), partnerships, NPO’s, registered charities and CCPC’s that are eligible for the small business deduction. The employer must have had a valid payroll account with the CRA on March 18, 2020 and pay salary, wages, bonuses or other remuneration to an eligible employer. This subsidy was introduced as part of the broad legislation under Bill C-13 which received emergency Royal Assent on March 25, 2020.

The subsidy amounts to 10% of the remuneration the employer pays from March 18, 2020 to June 19, 2020, up to \$1,375 for each eligible employee and to a maximum of \$25,000 total per employer. It is noted that associated CCPC’s will not be required to share the maximum subsidiary of \$25,000 per employer.

There is no required application process and it applies automatically to reduce the withholding remittances required in respect of each employee. Accordingly, the employer (or payroll provider) is responsible for calculating the benefit and adjusting monthly remittances during the relevant subsidy period.

If your business does not qualify for the CEWS but qualifies for the TWS, please contact us if you require assistance with the calculation of the reduction in withholding remittances for the benefit period.

Canada Business Emergency Account (CEBA)

This business support initiative is designed to provide up to \$40,000 in interest-free loans for small businesses and not-for-profit organizations. The definition of a “small business” has not been provided, but a key criterion for qualification is that the applicant business must have paid between \$50,000 and \$1 million in payroll for 2019. In addition, the applicant business must show that they have had their revenues temporarily reduced. There are no details provided around the quantum of reduction or the length of time over which the reduction is realized at this time.

If repaid by Dec 31, 2022, up to 25% of the loan is forgivable (up to \$10,000). Application for loans obtained through the CEBA must be made through your financial institution, in cooperation with Export Development Canada.

Deferral of GST/HST and Duties

All businesses, including self-employed individuals can defer remittances of GST/HST, customs duties and GST on import until June 30. Deferral of the payments apply to the following months/periods:

- Monthly filers - Feb, Mar, Apr remittances
- Quarterly filers - remittances for Jan 1-Mar 31 reporting period.
- Annual filers - instalments or amounts due in Mar, Apr or May.
- Customs duties and GST on imports for Mar, Apr, May

CRA has noted that GST/HST returns should still be filed on time, however on April 1, 2020 they confirmed that although “The deadline for businesses to file their returns is unchanged...the CRA won’t impose penalties where a return is filed late provided that it is filed by June 30, 2020”.

Loans to SME’s through Export Development Canada (EDC)

Qualifying SMEs will be able to obtain operating credit and cash flow term loans up to \$6.25M. These loans would be obtained through the SME’s financial institution and would be guaranteed by EDC.

No details have been provided as to the eligibility criteria or the or the loan and repayment terms. Stay tuned for further details and for a timeline for application.

Loans to Businesses Through Business Development Bank Canada (BDC)

Canadian businesses can obtain incremental credit amounts up to \$6.25M. Loans would be obtained through the business’s financial institution. Loans are provided through a co-lending program between the business’s financial institution and BDC.

Once again, no details have been provided as to the eligibility criteria or the or the loan and repayment terms. Stay tuned for further details and for a timeline for application.

For additional information on supports & benefits for individuals and families, please click on the following link for a comprehensive summary compiled by Jennifer Robson, Associate Professor of Political Management, Carleton University.

https://drive.google.com/file/d/1lOJn7XS6ETtkbLRodYk681M_2dxkkQsc/view

NEXT TIME: PROVINCIAL SUPPORT PROGRAMS

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In these trying and challenging times we can help you navigate the programs and benefits available to keep you moving forward. Do not hesitate to contact us for assistance.