

Additional Details on Canada Emergency Wage Subsidy Announced

On April 8, 2020, additional information was released with respect to the Canada Emergency Wage Subsidy (“CEWS”) and other measures to assist businesses.

The Minister of Finance, Bill Morneau, proposed additional measures for businesses to address some of the feedback that they have received from various stakeholder groups. The below is intended to be a summary of the details that have been announced to date. As legislation is still pending, these measures are subject to change, however, we recognize that businesses need the most up to date information to assist in their decision making throughout the coming weeks and months.

When first announced, access to the CEWS was available for those businesses that could demonstrate a reduction of 30% of revenues from the same time period last year. Revenues for March, April and May 2020 would be compared to revenues from March, April and May of 2019 to determine whether a 30% decline in revenue had occurred. Revenues for purposes of this calculation will include revenues earned in Canada from arm’s length sources, excluding extraordinary items and amounts earned on account of capital.

April 8, 2020’s announcement proposed additional flexibility for businesses in applying these tests to determine their eligibility for the CEWS.

Changes to the Revenue Test

The first of these measures is that the revenue reduction threshold for the month of March 2020 is reduced from 30% to 15%. This means that employers will only need to demonstrate a 15% reduction in revenue for March 2020 to qualify for the CEWS. This measure is intended to recognize that the impact of COVID-19 was not realized by many businesses until the latter half of March 2020.

The COVID-19 measures also expanded flexibility for businesses by allowing businesses to choose to compare their March, April and May 2020 revenue to last year’s number, or to compare it to the average revenue from January and February of 2020. This measure is intended to provide additional support to high-growth companies and new businesses which may not have otherwise met the 30% revenue test. This measure was clarified to be available to all businesses applying for the subsidy and not just for new businesses.

Another proposed measure is to allow businesses to choose whether to measure their decline in revenue using either the accrual basis of accounting (as revenues are earned), or the cash basis of accounting (as revenues are received). This measure is intended to recognize the timing difference between when revenues are earned and when businesses receive payment for those revenues. Businesses will not be able to use a combination of both methods, will need to select a method prior to application for the CEWS, and then continue calculations based on the selected method for the eligible period. The Minister indicated

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that additional rules with respect to issues for corporate groups, non-arm's length entities, and joint ventures would also be introduced, however, no details on these rules have been announced yet.

Charities and non-profit organizations will be provided the additional flexibility to choose whether or not to include government funding in determining the calculation for the decline in revenue. Similar to the accrual or cash methods, organizations must make a decision prior to their application for the CEWS and must use that same approach throughout the period.

Refunds of certain employer paid remittances

Finally, the Minister announced that businesses that qualify for the CEWS, will also receive a refund of certain employer paid remittances for Employment Insurance, the Canada Pension Plan and comparable Quebec programs. This refund will be available for contributions made for eligible employees for each full week that they are on leave with pay ("furloughed employees").

Employers will still be required to deduct and remit employer and employee contributions as normal, and will apply for the refund at the same time that they apply for the CEWS.

Additional information on calculation of the subsidy

The CEWS will apply to eligible remuneration paid to employees from March 15, 2020 – June 6, 2020. It will be calculated as the greater of

- 75% of the remuneration paid, to a maximum of \$847 per week; and
- the amount of remuneration paid, or 75% of the employee's pre-crisis weekly remuneration, up to a maximum of \$847 per week.

Eligible remuneration is intended to include salary, wages and other remuneration on which employers would generally be required to withhold and remit source deductions. Eligible remuneration will not include severance pay, stock option benefits, or taxable benefits associated with an employer owned vehicle.

For non-arm's length employees, there will be a special calculation that will limit the subsidy amount to the maximum of \$847 per week and 75% of the employee's pre-crisis weekly remuneration. Non-arm's length employees will only be eligible if they were employed prior to March 15, 2020.

Eligible Subsidy Periods

The eligible subsidy periods are broken down into the following 4-week periods. Employers will need to reapply for the CEWS for each eligible period.

Claiming Period	Reduction in Revenue	Reference period for Eligibility
March 15 to April 11	15%	March 2020 compared to March 2019 or average of January and February 2020
April 12 to May 9	30%	April 2020 compared to April 2019 or average of January and February 2020
May 10 to June 6	30%	May 2020 compared to May 2019 or average of January and February 2020

Interaction of CEWS with other benefit programs

CEWS and the Canada Emergency Response Benefit (“CERB”)

Previously, an employer would not have been eligible to claim the CEWS for remuneration paid to an employee in the same 4-week period in which that employee was eligible for the CERB.

This rule has now been changed to limit an employer's eligibility for the CEWS to employees that have not been without remuneration for more than 14 days in each eligible period (as noted in the table above). Additional measures are currently being considered to ensure duplication of the benefits are limited. We expect further information on how the limitation for duplication of the CEWS and the CERB will be administered.

CEWS and the Temporary Wage Subsidy (“TWS”)

Employers can be eligible for both the CEWS and the TWS. For employers that have received benefits under the TWS, the amount claimed will generally reduce the amount available to be claimed under the CEWS. We expect further details on how businesses will apply these rules when additional details are released on the application process.

Taxation of Benefits

As with all government assistance, businesses that receive benefits under the CEWS or TWS will need to add these amounts to their taxable income for the period in which it is received and will also impact other tax credits calculated on that same remuneration (ie. apprenticeship tax credits).