

## **Federal government launches the Canada Emergency Wage Subsidy program**

Retroactively effective March 15, 2020, under the new [Canada Emergency Wage Subsidy program \(CEWS\)](#), qualifying employers receive federal subsidies covering, in general, 75 per cent of eligible employee remuneration up to a maximum of \$847 per week per employee for up to twelve weeks, over the period from March 15, 2020 to June 6, 2020.

This wage subsidy enables employers to re-hire employees laid off as a result of COVID-19 and prevent further job losses.

The legislation allows the government to extend the CEWS program until September 30, 2020 and to modify the minimum revenue reduction criteria and subsidy amount of such an extension of the program.

### **Applicable legislation**

The CEWS program was introduced by federal [COVID-19 Emergency Response Act, No. 2](#) (Bill C-14), which received Royal Assent on April 11, 2020 and came into force on April 12, 2020.

### **Affected employers**

Employers, including individuals, taxable corporations, and non-profit organizations, that had a payroll account with the Canada Revenue Agency on March 15, 2020 and have experienced a minimum reduction in qualifying revenues of 15 per cent for March 2020 and 30 per cent for April and May 2020 are affected.

### **Definition of revenues**

For the purposes of qualifying for CEWS, the legislation defines an employer's revenues as arm's length revenues earned from business conducted in Canada.

Employers may consolidate revenues with other corporate group entities, and under certain conditions, by mention of non-arm's-length individual's or partnerships' revenues. If a corporate group opts to consolidate revenues, it must account for revenues across all of the group's affiliated entities. In other words, a group may not apply consolidation selectively across some of its affiliated entities and not others.

The legislation allows employers to calculate revenues according to the accrual method or the cash method.

### **Minimum reduction in revenues**

The legislation provides that the revenue loss threshold for eligibility depends on the period for which the employer is applying for a wage subsidy. Once an employer is determined as being qualified for wage subsidies in a specific period, it automatically becomes eligible for the subsequent period.

The minimum revenue decline thresholds for qualifying are:

- 15 per cent for the March 15, 2020 to April 11, 2020 period;
- 30 per cent for the April 12, 2020 to May 9, 2020 and for the May 10, 2020 to June 6, 2020 periods.

To determine eligibility, employers may opt to compare their March, April or May 2020 revenues to the respective month in 2019, or to an average of their January 2020 and February 2020 revenues.

### **Amount of subsidy**

For eligible employers, the wage subsidy amount is equal to the lower of 75 per cent of each eligible employee's pre-crisis remuneration or 100 per cent of their current remuneration (if certain employees' salaries have been reduced), up to a maximum benefit of \$847 per week, for a maximum duration of twelve weeks.

Employee remuneration may include salary, wages, and other pay. However, severance pay and stock option benefits are excluded for determining the wage subsidy.

In the case of new employees recruited between March 15, 2020 and June 6, 2020 – the term of the program – the subsidy amount is equal to the employee's actual remuneration, subject to the \$847 weekly cap, for a maximum duration of twelve weeks.

For employees on paid leave, the subsidy is increased by the employer's Employment Insurance (EI) contributions and their Canada Pension Plan (CPP) contributions, or their equivalents in Québec.

There is no cap on the total amount of the subsidy per employer. However, the amount of subsidy is reduced by payments received by the employer or by their employee under other government COVID-19 relief measures.

Special provisions apply for non-arm's-length employees recruited prior to March 15, 2020, the start of the program's term. For these employees, the subsidy amount is equal to the lower of 75 per cent of their pre-crisis remuneration or \$847 – the cap on the weekly subsidy amount per employee.

### **Penalties apply**

An employer applying for the emergency wage subsidy that is later determined to be ineligible will be required to reimburse any wage subsidies received.

An employer taking part in transactions for the main purpose of demonstrating their eligibility in terms of lost revenues may be subject to a penalty equal to 25 per cent of the amounts claimed, in addition to the requirement to repay in full the subsidy that was improperly claimed.

An employer determined to be abusing the CEWS program, or engaging in fraudulent claims, faces potential fines equal to 225 per cent of the subsidies received and imprisonment of up to five years.

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