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Government extends and expands the Canada Emergency Wage Subsidy program

On May 15, 2020, the government announced changes to the [Canada Emergency Wage Subsidy program \(CEWS\)](#) in a Department of Finance Canada [press release](#).

The announced changes consist of:

- An extension of the CEWS wage subsidization period.
- Expansion of the CEWS program eligibility to new categories of employers.

In a related backgrounder entitled [Extending eligibility for the Canada Emergency Wage Subsidy](#), the government announced its plans to propose further legislative amendments to ensure that CEWS meets its intended objectives. The planned legislative amendments for CEWS purposes relate to:

- The calculation of an employer's baseline remuneration for those who are eligible.
- The calculation of the qualifying revenue for corporations formed on the amalgamation of two or more predecessor corporations.
- Alignment of trusts and corporations in terms of tax treatment.

The government indicated that it will consult with key business and labour representatives on the planned amendments to the CEWS program, including on the program's current 30 per cent revenue decline eligibility threshold.

Affected employers and employees

The extension concerns all previously qualified employers, and the following now added categories of employers:

- Partnerships with one or more non-eligible members under certain conditions;
- Government-owned Indigenous businesses;
- National-level registered Canadian amateur athletic associations;
- Registered non-profit journalism organizations; and
- Non-public educational and training institutions.

Announced changes to the CEWS program

The two changes to the CEWS program, which provides a 75 per cent wage subsidy to eligible employers, as announced in the government's press release are detailed below.

Extension of the wage subsidization period

The CEWS is extended by an additional twelve weeks to August 29, 2020.

Expansion of CEWS eligibility

CEWS program eligibility has been expanded to new categories of employers, effective April 11, 2020 and applicable to qualifying periods as from March 15, 2020. The following categories of employers may now also be eligible for wage subsidies under the CEWS program:

- Partnerships with one or more non-eligible members may now be eligible, provided the non-eligible member (persons or partnerships) do not directly or indirectly hold interests (through one or more partnerships) in the partnership with an aggregate fair market value that exceeds 50 per cent of the total. Under the original CEWS provisions, all of a partnership's members had to be eligible for CEWS for the partnership to be eligible.
- Tax-exempt government-owned Indigenous businesses, including any of their wholly owned subsidiaries. Under the initial provisions, Indigenous government-owned businesses had to be subject to income tax (under paragraph 149(1)(d.5) of the Income Tax Act) in order to qualify for the program.
- National-level registered Canadian Amateur Athletic Associations have also been added to the categories of businesses eligible for CEWS wage subsidies that are explicitly listed in the legislation. Under the initial CEWS provisions such national level associations were excluded from the list because they are not income tax exempt, as compared to provincially, regionally, or locally registered Canadian Amateur Athletic Associations.
- Registered non-profit journalism organizations, which are income tax exempt, have now been added to the tax-exempt entities explicitly listed as eligible for CEWS.
- Non-public educational and training institutions. Private sector non-profit and for profit colleges and schools are now also eligible for CEWS wage subsidies.

Planned CEWS amendments

The government intends to propose legislative amendments to relax CEWS eligibility and flexibility in terms of wage subsidy amounts under certain circumstances, and to better align the tax treatment of trusts and corporations. The planned changes as well as their intended effective dates are detailed below.

Calculation of baseline remuneration

To support seasonal employees and employees returning from extended leave (such as parental, disability, or unpaid leave) from January 1, 2020 to March 15, 2020, for whom the calculation of the wage subsidy under the initial provisions of CEWS may lead to unintended amounts, the government proposes amendments to provide employers with

the option of choosing from two timeframes for calculating the baseline remuneration of an employee. As such, an employee's baseline remuneration could be calculated as their average weekly remuneration over either of the following timeframes:

- From January 1, 2020 to March 15, 2020; or
- From March 1, 2019 to May 31, 2019.

The amendment would be retroactive to April 11, 2020 and applicable to qualifying periods as from March 15, 2020.

Calculation of the qualifying revenue

Eligibility for wage subsidies under the CEWS program includes a revenue decline test. To include certain amalgamations and wind-ups, the government-proposed amendments would allow a corporation formed on an amalgamation of two or more predecessor corporations (or where a parent corporation is wound-up into another) to calculate their prior period revenues using their combined revenues, "unless it is reasonable to consider that one of the main purposes for the amalgamation (or the winding up) was to qualify for the CEWS", according to the Backgrounder that accompanied the government's press release.

The amendment would be retroactively effective as from April 11, 2020 and applicable to qualifying periods as from March 15, 2020.

Tax-exempt trusts

The government plans to introduce additional eligibility criteria for certain trusts. These would be:

- If a trust is a non-public tax-exempt entity, it must be a registered charity or one of the other categories of eligible tax-exempt entities listed in the legislation; and
- If a trust is a public institution, it must be a prescribed organization.

The amendment would be retroactive to April 11, 2020 and applicable to qualifying periods as from May 10, 2020.

BACKGROUND

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.

CEWS is a wage subsidy program paying up to 75 per cent of an employee's pre-crisis wage to encourage eligible employers to retain and/or re-hire employees laid off as a result of COVID-19 and prevent further job losses.

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

The COVID-19 Emergency Response Act, No. 2 included provisions allowing the government to extend the CEWS program until 30 September 2020 and to modify the minimum revenue reduction criteria and subsidy amount of such an extension of the program.

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