

Bill C-14

RECOMMENDATION

Her Excellency the Governor General recommends to the House of Commons the appropriation of public revenue under the circumstances, in the manner and for the purposes set out in a measure entitled “A *second Act respecting certain measures in response to COVID-19*”.

SUMMARY

Part 1 amends the *Income Tax Act* to introduce an emergency wage subsidy as part of the response to the coronavirus disease 2019 (COVID-19).

Part 2 amends Part IV.1 of the *Financial Administration Act* to provide that certain provisions of that Act, as enacted by the *COVID-19 Emergency Response Act*, cease to have effect on the day after September 30, 2020.

Available on the House of Commons website at the following address:
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A second Act respecting certain measures in response to COVID-19

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COVID-19 Emergency Response Act, No. 2

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1st Session, 43rd Parliament,
68-69 Elizabeth II, 2019-2020
HOUSE OF COMMONS OF CANADA

BILL C-14

A second Act respecting certain measures in response to COVID-19

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Short Title

Short title

1 This Act may be cited as the *COVID-19 Emergency Response Act, No. 2*.

PART 1

R.S., c. 1 (5th Supp.)
Income Tax Act

Amendments to the Act

2 The *Income Tax Act* is amended by adding the following after section 125.6:

Definitions

125.7 (1) The following definitions apply in this section and in subsection 163(2.901).

baseline remuneration, in respect of an eligible employee of an eligible entity, means the average weekly eligible remuneration paid to the eligible employee by the eligible entity during the period that begins on January 1, 2020 and ends on March 15, 2020, excluding any period of seven or more consecutive days for which the employee was not remunerated. (*rémunération de base*)

current reference period, for a qualifying period, means

(a) for the qualifying period referred to in paragraph (a) of the definition *qualifying period*, March 2020;

(b) for the qualifying period referred to in paragraph (b) of the definition *qualifying period*, April 2020;

(c) for the qualifying period referred to in paragraph (c) of the definition *qualifying period*, May 2020; and

(d) for the qualifying period referred to in paragraph (d) of the definition *qualifying period*, a prescribed period. (*période de référence actuelle*)

eligible employee, of an eligible entity in respect of a week in a qualifying period, means an individual employed in Canada by the eligible entity in the qualifying period, other than an individual who is without remuneration by the eligible entity in respect of 14 or more consecutive days in the qualifying period. (*employé admissible*)

eligible entity means

(a) a corporation, other than a corporation that is exempt from tax under this Part or is a public institution;

(b) an individual;

- (c) a registered charity, other than a public institution;
- (d) a person that is exempt from tax under this Part because of paragraph 149(1)(e), (j), (k) or (l), other than a public institution;
- (e) a partnership, all of the members of which are described in this paragraph or any of paragraphs (a) to (d); or
- (f) a prescribed organization. (*entité déterminée*)

eligible remuneration, of an eligible employee of an eligible entity, means amounts described in paragraph 153(1)(a) or (g), other than

- (a) for greater certainty, a retiring allowance;
- (b) amounts deemed to have been received by the eligible employee as a benefit under or because of any of paragraphs 7(1)(a) to (d.1);
- (c) any amount received that can reasonably be expected to be paid or returned, directly or indirectly, in any manner whatever, to
 - (i) the eligible entity,
 - (ii) a person or partnership not dealing at arm's length with the eligible entity, or
 - (iii) another person or partnership at the direction of the eligible entity; and
- (d) any amount that is paid in respect of a week in the qualifying period, if, as part of an arrangement involving the eligible employee and the eligible entity,

- (i) the amount is in excess of the eligible employee's baseline remuneration,
- (ii) after the qualifying period, the eligible employee is reasonably expected to be paid a lower weekly amount than their baseline remuneration, and
- (iii) one of the main purposes for the arrangement is to increase the amount of the deemed overpayment under subsection (2). (*rémunération admissible*)

prior reference period, for a qualifying period of an eligible entity, means

- (a) subject to paragraph (b),
 - (i) for the qualifying period referred to in paragraph (a) of the definition *qualifying period*, March 2019,
 - (ii) for the qualifying period referred to in paragraph (b) of the definition *qualifying period*, April 2019, and
 - (iii) for the qualifying period referred to in paragraph (c) of the definition *qualifying period*, May 2019;

(b) January and February 2020, if

- (i) on March 1, 2019, the eligible entity was not carrying on business or otherwise carrying on its ordinary activities, or
- (ii) the qualifying period is referred to in any of paragraphs (a) to (c) of the definition *qualifying period* and the eligible entity elects for all of those paragraphs; and
- (c) for the qualifying period referred to in paragraph (d) of the definition *qualifying period*, a prescribed period. (*période de référence antérieure*)

public institution means

- (a) an organization described in any of paragraphs 149(1)(a) to (d.6); or

(b) a school, school board, hospital, health authority, public university or college. (*institution publique*)

qualifying entity, for a qualifying period, means an eligible entity that meets the following conditions:

(a) it files an application with the Minister in respect of the qualifying period in prescribed form and manner, before October 2020;

(b) the individual who has principal responsibility for the financial activities of the eligible entity attests that the application is complete and accurate in all material respects;

(c) its qualifying revenues for the current reference period are equal to or less than the specified percentage, for the qualifying period, of

(i) if paragraph (a) or (c) of the definition *prior reference period* applies, its qualifying revenues for the prior reference period, and

(ii) if paragraph (b) of the definition *prior reference period* applies, the amount determined by the formula

$$0.5A(B/C)$$

where

A

is its qualifying revenues for the prior reference period,

B

is the number of days in the prior reference period, and

C

is the number of days in the prior reference period during which the eligible entity was carrying on business; and

(d) it had, on March 15, 2020, a business number in respect of which it is registered with the Minister to make remittances required under section 153. (*entité admissible*)

qualifying period means

(a) the period that begins on March 15, 2020 and ends on April 11, 2020;

(b) the period that begins on April 12, 2020 and ends on May 9, 2020;

(c) the period that begins on May 10, 2020 and ends on June 6, 2020; or

(d) a prescribed period that ends no later than September 30, 2020. (*période d'admissibilité*)

qualifying revenue, of an eligible entity for a prior reference period or a current reference period, means the inflow of cash, receivables or other consideration arising in the course of the ordinary activities of the eligible entity — generally from the sale of goods, the rendering of services and the use by others of resources of the eligible entity — in Canada in the particular period, subject to the following:

(a) in the case of an eligible entity described in paragraph (c) of the definition *eligible entity*,

(i) it includes revenue from a *related business* (as defined in subsection 149.1(1)), gifts and other amounts received in the course of its ordinary activities, and

(ii) notwithstanding subparagraph (i), the eligible entity may elect to exclude funding received from government sources in the determination of its qualifying revenue for all of its prior reference periods and current reference periods;

(b) in the case of an eligible entity described in paragraph (d) of the definition *eligible entity*,

(i) it includes membership fees and other amounts received in the course of its ordinary activities, and

(ii) notwithstanding subparagraph (i), the eligible entity may elect to exclude funding received from government sources in the determination of its qualifying revenue for all of its prior reference periods and current reference periods;

(c) it excludes, for greater certainty, extraordinary items;

(d) it excludes amounts derived from persons or partnerships not dealing at arm's length with the eligible entity; and

(e) it excludes, for greater certainty, deemed overpayments under subsection (2) and deemed remittances under subsection 153(1.02). (*revenu admissible*)

specified percentage, for a qualifying period, means

(a) for the qualifying period referred to in paragraph (a) of the definition *qualifying period*, 85%;

(b) for the qualifying period referred to in paragraph (b) or (c) of the definition *qualifying period*, 70%; and

(c) for the qualifying period referred to in paragraph (d) of the definition *qualifying period*, the prescribed percentage. (*pourcentage déterminé*)

COVID-19 – wage subsidy

(2) For a qualifying entity for a qualifying period, an overpayment on account of the qualifying entity's liability under this Part for the taxation year in which the qualifying period ends is deemed to have arisen during the qualifying period in an amount determined by the formula

$$A - B - C + D$$

where

A

is the total of all amounts, each of which is for an eligible employee in respect of a week in the qualifying period, equal to the greater of

(a) the least of

(i) 75% of eligible remuneration paid to the eligible employee in respect of that week,

(ii) \$847, and

(iii) if the eligible employee does not deal at arm's length with the qualifying entity in the qualifying period, nil, and

(b) the least of

(i) the amount of eligible remuneration paid to the eligible employee in respect of that week,

(ii) 75% of baseline remuneration in respect of the eligible employee determined for that week, and

(iii) \$847;

B

is the total of all amounts each of which is an amount deemed to have been remitted under subsection 153(1.02) by the qualifying entity in the qualifying period;

C

is the total of all amounts received by the eligible employee for each week in the qualifying period as a work-sharing benefit under the *Employment Insurance Act*; and

D

is the total of all amounts, each of which is for an eligible employee in respect of a week in the qualifying period, if the eligible employee is on leave with pay for that week and the amount is

(a) an amount payable by the qualifying entity

(i) as an employer's premium under the *Employment Insurance Act*, or

(ii) as an employer's contribution under the *Canada Pension Plan* or under a provincial pension plan as defined in section 3 of the *Canada Pension Plan*, or

(b) an amount payable by the qualifying entity as an employer's premium under the *Act respecting parental insurance*, CQLR, c. A-29.011.

When assistance received

(3) For the purposes of this Act other than this section, and for greater certainty, the amount that a qualifying entity is deemed under subsection (2) to have overpaid is assistance received by it from a government immediately before the end of the qualifying period to which it relates.

Computation of revenue

(4) For the purposes of the definition *qualifying revenue* in subsection (1), the qualifying revenue of an eligible entity is to be determined in accordance with its normal accounting practices, except that

(a) if a group of eligible entities normally prepares consolidated financial statements, each member of the group may determine its qualifying revenue separately, provided every member of the group determines its qualifying revenue on that basis;

(b) if an eligible entity and each member of an affiliated group of eligible entities of which the eligible entity is a member jointly elect, the qualifying revenue of the group determined on a consolidated basis in accordance with relevant accounting principles is to be used for each member of the group;

(c) if all of the interests in an eligible entity are owned by participants in a joint venture and all or substantially all of the qualifying revenue of the eligible entity for a qualifying period is in respect of the joint venture, then the eligible entity may use the qualifying revenues of the joint venture (determined as if the joint venture were an eligible entity) instead of its qualifying revenues for

the purposes of paragraph (c) of the definition *qualifying entity* in subsection (1);

(d) if all or substantially all of an eligible entity's qualifying revenue — determined without reference to paragraph (d) of the definition *qualifying revenue* in subsection (1) — for a qualifying period is from one or more particular persons or partnerships with which it does not deal at arm's length and each particular person or partnership jointly elects with the eligible entity, for the purposes of paragraph (c) of the definition *qualifying entity* in subsection (1)

(i) the eligible entity's qualifying revenue for the prior reference period is deemed to be \$100, and

(ii) the eligible entity's qualifying revenue for the current reference period is deemed to be the total of all amounts, each of which is determined by the formula

$$\mathbf{\$100(A/B)(C/D)}$$

where

A

is the eligible entity's qualifying revenue (determined without reference to paragraph (d) of the definition *qualifying revenue* in subsection (1)) for the current reference period attributable to a particular person or partnership,

B

is the total of all amounts, each of which is the eligible entity's qualifying revenue (determined without reference to paragraph (d) of the definition *qualifying revenue* in subsection (1)) for the current reference period attributable to a particular person or partnership,

C

is the particular person or partnership's qualifying revenue (determined as if the definition *qualifying revenue* in subsection (1) were read without reference to "in Canada") for the current reference period, and

D

is the particular person or partnership's qualifying revenue (determined as if the definition *qualifying revenue* in subsection (1) were read without reference to "in Canada") for the prior reference period; and

(e) an eligible entity may make an election, which must apply for all qualifying periods, to determine its revenues based on the cash method, within the meaning assigned by subsection 28(1) with any modifications that the circumstances require.

Deemed overpayment

(5) For the purposes of this section,

(a) the amount of any deemed overpayment by an eligible entity under subsection (2) in respect of a qualifying period cannot exceed the amount claimed by the qualifying entity — in the application referred to in paragraph

(a) of the definition *qualifying entity* in subsection (1) — in respect of that qualifying period; and

(b) if an eligible employee is employed in a week by two or more qualifying entities that do not deal with each other at arm's length, the total amount of the deemed overpayment under subsection (2) in respect of the eligible employee for that week shall not exceed the amount that would arise if the eligible employee's eligible remuneration for that week were paid by one qualifying entity.

Anti-avoidance — qualifying revenues

(6) The qualifying revenue of an eligible entity for a current reference period for a qualifying period is deemed to be equal to the qualifying revenue of the eligible entity for the relevant prior reference period, if

(a) the eligible entity, or a person or partnership not dealing at arm's length with the eligible entity, enters into a transaction or participates in an event (or a series of transactions or events) or takes an action (or fails to take an action) — other than, for greater certainty, a decision under subparagraph (a)(ii) or (b)(ii) of the definition *qualifying revenue* in subsection (1) or the decision to use one of the methods of computing qualifying revenues under subsection (4) — that has the effect of reducing the qualifying revenues (determined without reference to this subsection) of the eligible entity for the current reference period; and

(b) it is reasonable to conclude that one of the main purposes of the transaction, event, series or action in paragraph (a) is to cause an eligible entity to qualify for the deemed overpayment under subsection (2) in respect of that qualifying period.

Partnerships

(7) A partnership is deemed

(a) for the purposes of subsection (2) and subsection 160.1(1), to be a taxpayer; and

(b) for the purposes of subsection (2), to have a liability under this Part for a taxation year in which a qualifying period ends.

Prescribed amounts

(8) For any period referred to in paragraph (d) of the definition *qualifying period* in subsection (1), the following may be prescribed:

(a) the percentages in subparagraphs (a)(i) and (b)(ii) of the description of A in subsection (2); and

(b) the amounts in subparagraphs (a)(ii) and (b)(iii) of the description of A in subsection (2).

Deeming rule — current reference period

(9) If, absent the application of this subsection, an eligible entity meets the conditions in paragraph (c) of the definition *qualifying entity* in subsection (1) in respect of a particular qualifying period, then the eligible entity is deemed to meet the conditions of that paragraph in respect of the immediately following qualifying period.

3 Paragraph 152(1)(b) of the Act is replaced by the following:

(b) the amount of tax, if any, deemed by subsection 120(2) or (2.2), 122.5(3) or (3.001), 122.51(2), 122.7(2) or (3), 122.8(4), 122.9(2), 122.91(1), 125.4(3), 125.5(3), 125.6(2), 125.7(2), 127.1(1), 127.41(3) or 210.2(3) or (4) to be paid on account of the taxpayer's tax payable under this Part for the year.

4 (1) Subsection 163(2) of the Act is amended by striking out "and" at the end of paragraph (g), by adding "and" at the end of paragraph (h) and by adding the following after paragraph (h):

(i) the amount, if any, by which

(i) the amount that would be deemed by subsection 125.7(2) to have been an overpayment by the person or partnership if that amount were calculated by reference to the information provided in the application filed pursuant to section 125.7

exceeds

(ii) the amount that is deemed by that subsection to be an overpayment by the person or partnership.

(2) Subsection 163(2.9) of the Act is replaced by the following:

Partnership liable to penalty

(2.9) If a partnership is liable to a penalty under paragraph (2)(i), subsection (2.4) or (2.901) or section 163.2, 237.1 or 237.3, sections 152, 158 to 160.1, 161 and 164 to 167 and Division J apply, with any changes that the circumstances require, in respect of the penalty as if the partnership were a corporation.

Penalty — COVID-19

(2.901) Every eligible entity that is deemed by subsection 125.7(6) to have an amount of qualifying revenue — for a current reference period for a qualifying period — is liable to a penalty equal to 25% of the amount that would be deemed by subsection 125.7(2) to have been an overpayment by the eligible entity during that qualifying period if that amount were calculated by reference to the information provided in the application filed pursuant to paragraph (a) of the definition *qualifying entity* in subsection 125.7(1).

5 (1) Section 164 of the Act is amended by adding the following after subsection (1.53):

COVID-19 refunds

(1.6) Notwithstanding subsection (2.01), at any time after the beginning of a taxation year of a taxpayer in which an overpayment is deemed to have arisen under subsection 125.7(2), the Minister may refund to the taxpayer all or any part of the overpayment.

COVID-19 refunds — partnerships

(1.61) For the purposes of subsection (1.6), references to a taxpayer include a partnership and the reference to a taxation year includes a fiscal period.

(2) The portion of subsection 164(3) of the Act before paragraph (a) is replaced by the following:

Interest on refunds and repayments

(3) If, under this section, an amount in respect of a taxation year (other than an amount, or a portion of the amount, that can reasonably be considered to arise from the operation of section 122.5, 122.61 or 125.7) is refunded or repaid to a taxpayer or applied to another liability of the taxpayer, the Minister shall pay or apply interest on it at the prescribed rate for the period that begins on the day that is the latest of the days referred to in the following paragraphs and that ends on the day on which the amount is refunded, repaid or applied:

6 (1) Section 241 of the Act is amended by adding the following after subsection (3.4):

Information may be communicated

(3.5) The Minister may communicate or otherwise make available to the public, in any manner that the Minister considers appropriate, the name of any person or partnership that makes an application under section 125.7.

(2) Paragraph 241(4)(d) of the Act is amended by adding the following after subparagraph (vii.5):

(vii.6) to an official solely for the purposes of the administration and enforcement of the *Canada Emergency Response Benefit Act* or the evaluation or formulation of policy for that Act,

Payments out of Consolidated Revenue Fund

Consolidated Revenue Fund

7 For the purpose of subsection 164(1.6) of the *Income Tax Act*, the Minister of National Revenue may make payments to a person or partnership out of the Consolidated Revenue Fund, at the times and in the manner that the Minister considers appropriate.

PART 2

R.S., c. F-11

Financial Administration Act

Amendments to the Act

8 (1) Subsections 60.2(2) to (2.3) of the *Financial Administration Act* are replaced by the following:

Contracts

(2) Subject to subsection (3), the Minister may, with the Governor in Council's authorization, enter into, on behalf of Her Majesty in right of Canada, any contract that in the Minister's opinion is necessary to promote the stability

or maintain the efficiency of the financial system in Canada, including such a contract to

(a) purchase, acquire, hold, lend or sell or otherwise dispose of securities of an entity;

(b) create a charge on, or right or interest in, securities of an entity held by the Minister;

(c) make a loan to an entity;

(d) provide a line of credit to an entity;

(e) guarantee any debt, obligation or financial asset of an entity; or

(f) provide loan insurance or credit insurance for the benefit of an entity in respect of any debt, obligation or financial asset of the entity.

(2) The portion of subsection 60.2(3) of the Act before paragraph (a) is replaced by the following:

Non-application to certain entities

(3) Paragraph (2)(a) does not apply to

(3) Subsections 60.2(4) to (6) of the Act are replaced by the following:

Section 90 does not apply

(4) Section 90 does not apply if the Minister purchases, acquires or sells or otherwise disposes, under paragraph (2)(a), of shares within the meaning of that section.

Section 61 and *Surplus Crown Assets Act* do not apply

(5) Section 61 and the *Surplus Crown Assets Act* do not apply if the Minister holds, loans or sells or otherwise disposes of securities under paragraph (2)(a).

Payments out of C.R.F.

(6) Any amount payable under or in connection with a contract entered into under this section may be paid out of the Consolidated Revenue Fund, on the requisition of the Minister, at the times and in the manner that the Minister considers appropriate.

9 Subsection 60.3(1) of the Act is replaced by the following:

Incorporation

60.3 (1) If, in the Minister's opinion, it is necessary to promote the stability or maintain the efficiency of the financial system in Canada, the Minister may, during the period beginning on the day on which this subsection comes into force and ending on September 30, 2020, with the Governor in Council's authorization, procure the incorporation of a corporation, all of the shares of which are held by the Minister on behalf of Her Majesty in right of Canada.

10 Subsection 60.4(1) of the Act is replaced by the following:

Entity other than corporation

60.4 (1) If, in the Minister's opinion, it is necessary to promote the stability or maintain the efficiency of the financial system in Canada, the Minister may, during the period beginning on the day on which this subsection comes into force and ending on September 30, 2020, with the Governor in Council's

authorization, establish an entity, other than a corporation, on any terms and conditions that the Minister considers appropriate.

R.S., c. C-3

Consequential Amendment to the Canada Deposit Insurance Corporation Act

11 The portion of subsection 10.1(3) of the *Canada Deposit Insurance Corporation Act* before paragraph (a) is replaced by the following:

Total indebtedness

(3) The total principal indebtedness outstanding at any time in respect of borrowings by the Corporation under subsections (1) and (2), excluding the borrowings under paragraph 60.2(2)(c) of the *Financial Administration Act* and under subparagraph 60.2(2)(a)(iii) of that Act as it read on September 30, 2020, shall not exceed

Coming into Force

October 1, 2020

12 Sections 8 and 11 come into force on October 1, 2020.