

## Canada Emergency Wage Subsidy for Business (CEWS)

### COVID-19 Emergency Response Act, No. 2

Details as of April 11, 2020

#### Summary:

- On April 8<sup>th</sup> Prime Minister Trudeau and Finance Minister Morneau released additional details which appear to increase the criteria for eligibility for the program
- In the face of criticism from opposition parties and some in the private sector already [noting problems](#) with the CEWS program, the Liberal government has agreed to some additional amendments to the program reflected in the new legislation
- Today, the Liberals tabled **Bill 14 – A second Act respecting certain measures in response to COVID-19** (copy [here](#) and attached). The Conservatives confirm they have agreed to unanimous consent to get the bill through the House today. It is expected to receive Royal assent later today
- **Details released on April 8 are outlined in RED**
- New Details released April 11 are outlined in Green.

#### Program Details to Date:

##### What is the Amount of the Subsidy:

- The subsidy amount for a given employee on eligible remuneration paid between March 15 and June 6, 2020 would be 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.
- In effect, employers may be eligible for a subsidy of up to 100% of the first 75% of pre-crisis wages or salaries of existing employees. These employers would be expected where possible to maintain existing employees' pre-crisis employment earnings
- Eligible remuneration may include salary, wages, and other remuneration. These are amounts for which employers would generally be required to withhold or deduct amounts to remit to the Receiver General on account of the employee's income tax obligation. **The pre-crisis remuneration for a given employee would be based on the average weekly remuneration paid between January 1 and March 15 inclusively**
- Employers will also be eligible for a subsidy of up to 75% of salaries and wages paid to new employees.

##### Refund for Certain Payroll Contributions:

- **Today, the Government is proposing to expand the CEWS by introducing a new 100% refund for certain employer-paid contributions to Employment Insurance, the Canada Pension Plan, the Quebec Pension Plan, and the Quebec Parental Insurance Plan. This refund would cover 100% of employer-paid contributions for eligible employees for**

each week throughout which those employees are on leave with pay and for which the employer is eligible to claim for the CEWS for those employees. This refund would not be subject to the weekly maximum benefit per employee of \$847 that an eligible employer may claim in respect of the CEWS. There would be no overall limit on the refund amount that an eligible employer may claim. For greater certainty, employers would be required to continue to collect and remit employer and employee contributions to each program as usual. Eligible employers would apply for a refund, as described above, at the same time that they apply for the CEWS.

## What Corporations are Eligible:

- Eligible employers would include individuals, taxable corporations, and partnerships consisting of eligible employers as well as non-profit organizations and registered charities
- Definitions From Bill-14 and the *Income Tax Act*:
  - **eligible entity** means
    - (a) a corporation, other than a corporation that is exempt from tax under this Part or is 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
  - paragraph 149(l) of the *Income Tax Act*
    - Non-profit organizations**
      - (l) a club, society or association that, in the opinion of the Minister, was not a charity within the meaning assigned by subsection 149.1(1) and that was organized and operated exclusively for social welfare, civic improvement, pleasure or recreation or for any other purpose except profit...

[Note: Non-profit organizations are a category of tax-exempt entities under the Income Tax Act, distinct from registered charities. A non-profit organization can be established provincially or federally, and can be incorporated or unincorporated. Its legal obligations will depend upon its legal status and the jurisdiction in which it was created. Federally incorporated non-profits are governed by the Canada Not-for-Profit Corporations Act (CNCA). In Ontario, many non-profits are incorporated under the Ontario Corporations Act (OCA) as corporations without share capital.]

## What is the Qualification Threshold:

- The subsidy would be available to eligible employers that see a drop of at least 30% cent of their revenue. This subsidy would be available to eligible employers that see a drop of at least 15% of their revenue in March 2020 and 30% for the following months (in recognition of the fact that many businesses did not begin to be affected by the crisis until partway through March). Today, the government is announcing that all employers would be allowed to calculate their change in revenue using an alternative benchmark to determine their eligibility. Under this alternative approach, employers would be allowed to compare their revenue using an average of their revenue earned in January and February 2020. Employers would select the general year-over-year approach or this alternative approach when first applying for the CEWS and would be required to use the same approach for the entire duration of the program
- An 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
- New details in Bill C-14:
  - **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

- The amount of wage subsidy received by the employer in a given month would be ignored for the purpose of measuring year-over-year changes in monthly revenues.
- In recognition that the time between when revenue is earned and when it is paid could be highly variable in certain sectors of the economy, it is proposed that employers be allowed to measure revenues either on the basis of accrual accounting (as they are earned) or cash accounting (as they are received). The government is clarifying that employers would be allowed to calculate their revenues under the accrual method or the cash method, but not a combination of both. Employers would select an accounting method when first applying for the CEWS and would be required to use that method for the entire duration of the program
- New details contained in Bill C-14:
  - **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

...

(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.

#### Not-for-Profit Qualification Threshold:

- For non-profits and charities, the government will continue to work with the sector to ensure the definition of revenue is appropriate to their specific circumstances
- Registered charities and non-profit organizations would also be able to benefit from the additional flexibilities being provided to employers with respect to the revenue loss calculation. In addition, to recognize that different types of organizations are experiencing different types of funding pressures, it is proposed that charities and non-profit organizations be allowed to choose to include or exclude government funding in their revenues for the purpose of applying the revenue reduction test. Once chosen, the same approach would have to apply throughout the program period
- New details in Bill C-14:
  - **qualifying revenue**, of an eligible entity for a prior reference period or a current reference period, means
    - (b) in the case of an eligible entity described in paragraph (d) [non-profits] 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
- The government has said it will continue to work with affected non-profit organizations and registered charities to ensure the definition of revenue is appropriate to their circumstances.

#### Application Process:

- Eligible employers would be able to apply for the CEWS through the Canada Revenue Agency's [My Business Account](#) portal as well as a web-based application
- In applying for the subsidy, employers would be required to attest to the decline in revenue
- **Employers must apply for the benefit before October 2020**
- Bill C-14 states:
  - 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
- **Employers will have to re-apply each month as follows:**

#### Eligible Periods

	Claiming period	Required reduction in revenue	Reference period for eligibility
<b>Period 1</b>	March 15 to April 11	15%	March 2020 over: <ul style="list-style-type: none"> <li>• March 2019 or</li> <li>• Average of January and February 2020</li> </ul>
<b>Period 2</b>	April 12 to May 9	30%	April 2020 over: <ul style="list-style-type: none"> <li>• April 2019 or</li> <li>• Average of January and February 2020</li> </ul>
<b>Period 3</b>	May 10 to June 6	30%	May 2020 over: <ul style="list-style-type: none"> <li>• May 2019 or</li> <li>• Average of January and February 2020</li> </ul>

- New detail in Bill C-14: To provide certainty for employers, the government is also proposing that once an employer is found eligible for a specific period, they would automatically qualify for the next period of the program. For example, an employer with a revenue drop of more than 15% in March would qualify for the first and second periods of the program, covering remuneration paid between March 15 and May 9. Similarly, an employer with a revenue drop of 30% in April would qualify for the second and third periods of the program, covering remuneration paid between May 10 to June 6.

#### How Are Payments Made:

- Employers must first pay their employees' wages and, after proving these payments, they will be reimbursed with the subsidy by direct deposit. Note: All employers will be expected to make their best efforts to top up salaries to 100% of the maximum wages covered (i.e., to pay the remaining 25% of their employees' wages). There will be flexibility based on an understanding that some applicants may be unable to do so. An eligible employer's entitlement to this wage subsidy will be based entirely on the salary or wages actually paid to employees.

#### How Long to Get the Money?

- Finance Minister Morneau said businesses should start to receive the money in two to four weeks.

#### Employers are not Eligible to Claim CEWS for Employees that receive the Canadian Emergency Response Benefit:

- An employer would not be eligible to claim CEWS for remuneration paid to an employee in a week that falls within a 4-week period for which the employee is eligible for the Canadian Emergency Response Benefit. Employers who are not eligible for the CEWS would still be able to furlough employees who will receive up to \$2,000 a month.
- **To ensure that the Canada Emergency Response Benefit (CERB) applies as intended, the Government will consider implementing an approach to limit duplication. This could include a process to allow individuals rehired by their employer during the same eligibility period to cancel their CERB claim and repay that amount.**
- **Eligibility for the CEWS of an employee's remuneration, will be limited to employees that have not been without remuneration for more than 14 consecutive days in the eligibility period, i.e., from March 15 to April 11, from April 12 to May 9, and from May 10 to June 6. This rule replaces the previously announced restriction that an employer**

would not be eligible to claim the CEWS for remuneration paid to an employee in a week that falls within a 4-week period for which the employee is eligible for the Canadian Emergency Response Benefit.

### Interaction with 10% Wage Subsidy:

- On March 18, 2020, the Prime Minister announced a temporary 10% wage subsidy. Certain small employers continue to qualify for the Temporary Wage Subsidy for Employers, a previously-announced wage subsidy equal to 10% of remuneration paid from March 18, 2020 to June 19, 2020, up to a maximum subsidy of \$1,375 per employee and \$25,000 per employer
- For employers that are eligible for both the Canada Emergency Wage Subsidy and the 10% wage subsidy for a period, any benefit from the 10% wage subsidy for remuneration paid in a specific period would generally reduce the amount available to be claimed under the CEWS in that same period.

### How Long will the Canada Emergency Wage Subsidy Remain in Place?

- Currently, the program will be available for 12 weeks from March 15 to June 6, 2020.

### Tax Treatment for Subsidy Amounts Received:

- The usual treatment of tax credits and other benefits provided by the government would apply. As a consequence, the wage subsidy received by an employer would be considered government assistance and be included in the employer's taxable income.

### Compliance Measures:

- In order to maintain the integrity of the program and to ensure that it helps Canadians keep their jobs, the employer would be required to repay amounts paid under CEWS if they do not meet the eligibility requirements and pay their employees accordingly. Penalties may apply in cases of fraudulent claims. In addition, anti-abuse rules will be proposed to ensure that the subsidy is not inappropriately obtained and to ensure that employees are paid the amounts they are owed. The government is considering proposing to create new offences that will apply to individuals, employers or business administrators who provide false or misleading information to obtain access to this benefit or who misuse any funds obtained under the program. The penalties may include fines or even imprisonment
- **Employers that engage in artificial transactions to reduce revenue for the purpose of claiming the CEWS would be subject to a penalty equal to 25% of the value of the subsidy claimed, in addition to the requirement to repay in full the subsidy that was improperly claimed**
- Details in Bill C-14:
  - 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).

### **Launch the new Canada Emergency Business Account:**

- Government officials are also working with banks to finalize details on an interest-free loan program for small businesses

- This program will provide \$25 billion in total funding consisting of interest-free, partially forgivable loans of up to \$40,000 to small businesses and not-for-profits in all sectors and regions
- Canada's largest banks and credit unions have opened the application period
- Small businesses that had payrolls of \$50,000 to \$1 million in 2019 will be able to apply for loans of up to \$40,000 and pay no interest until the end of 2022.

**Links:**

- The April 11<sup>h</sup> Department of Finance press release is [here](#).