



What's New in HR Law

Canada Emergency Wage Subsidy: Additional Details Released

April 2, 2020

COVID-19 Update

On March 27, 2020, the Federal Government announced a 75% wage subsidy for eligible employers as an additional support for workers and businesses affected by the COVID-19 pandemic. This subsidy is available for up to 12 weeks, retroactive from March 15, 2020 until June 6, 2020.

Eligible Employers

Both large and small businesses may be eligible for the wage subsidy if they can show that their revenues have decreased by at least 30% as a result of COVID-19. The 30% reduction criterion is determined by comparing revenues from the same month last year (i.e. March 2020 against March 2019). The wage subsidy received by an employer in a given month will not be counted as revenue for the purpose of measuring the year-over-year changes in monthly revenues.

Neither the number of employees, nor the size of a business, will be determinative of whether a business may be eligible for the wage subsidy.

This update is for general discussion purposes and does not constitute legal advice or an opinion.

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Additional eligibility criteria are being considered for new businesses that may not have prior year revenues for comparison. Additional details are expected to be released by the Federal Government in the coming days.

Non-profits and charities are also eligible for the wage subsidy if they have incurred a similar decline in revenue. Exact eligibility criteria for non-profits and charities will also be addressed by the Federal Government in the coming days, including a definition of “revenue” that is appropriate in the circumstances.

Businesses that are publicly financed, including municipalities, local governments, Crown corporations, public universities, colleges, schools and hospitals, will not be eligible for the wage subsidy.

Amount of the Subsidy

The amount of any wage subsidy will be calculated on a per-employee basis. Any wage subsidy is to be provided for the benefit of employees.

Specifically, the subsidy amount for each employee will 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.

Wherever possible, employers will be expected to maintain existing employees' pre-crisis employment earnings. We expect further guidance to be released shortly as to the definition of "pre-crisis" weekly remuneration for employees.

Employers will also be eligible for a subsidy of up to 75% of salaries and wages paid to new employees.

There is no overall limit on the subsidy amount that an eligible employer may claim.

What about the remaining 25% of employee wages?

Employers will be expected to attest that they are making their best efforts to pay the remaining 25% of employee wages. The Federal Government is aware that this may not always be possible, but requests that, where employers are able, they top up the wage subsidy.

Application and Eligible Periods

The Federal Government's most recent announcement suggests that an application for the wage subsidy will be available in approximately three weeks through the Canada Revenue Agency's *My Business Account* portal. Employers are advised to have a direct deposit account with CRA in order to ensure timely payment of the wage subsidy. Payments to eligible employers who have

applied for the wage subsidy are expected to begin to arrive in approximately three to six weeks.

As stated above, eligibility will be determined by year over year changes in monthly revenue. For each eligibility period, there is a period of time (a “claiming period”) during which an employer may claim the wage subsidy. Practically, this means that employers will have to re-apply for the wage subsidy each month. The chart below which outlines each claiming period and the eligibility period during which the business has a decline of revenue of 30% or more.

Eligible Period		
	Claiming period	Reference period for eligibility
Period 1	March 15 – April 11	March 2020 over March 2019
Period 2	April 12 – May 9	April 2020 over April 2019
Period 3	May 10 – June 6	May 2020 over May 2019

The Federal Government’s announcements to date suggest that an employer’s revenue for purposes of the wage subsidy will be revenue from business carried on in Canada earned from arm’s-length sources. Further, revenue will be calculated using the employer’s normal accounting method, and will exclude revenues from extraordinary items and amounts on account of capital.

A “High Trust” System

The Federal Government has described this program as a “high trust” system and has promised severe penalties to any businesses that try to abuse this system, especially if the funds are not appropriately passed on to the employees as expected under the terms of the wage subsidy. The government is further considering creating new offences that will apply to those who provide false or misleading information to obtain access to this benefit or misuse funds obtained under the wage subsidy program.

What about the Canada Emergency Response Benefit (“CERB”)?

An employee cannot receive both the CERB and the Canada Emergency Wage Subsidy. An employer cannot claim the wage subsidy for remuneration paid to an employee during a week that falls within the 4-week period for which the employee is eligible for the CERB.

What about the 10% Wage Subsidy?

Those businesses that do not qualify for the Canada Emergency Wage Subsidy may continue to qualify for the previously announced wage subsidy of 10% of remuneration paid from March 18 to before June 20, up to a maximum subsidy of \$1,375 per employee and \$25,000 per employer.

Employers who are eligible for both programs will see any benefit paid under the 10% Wage Subsidy reduce the amount available for reimbursement under the Canada Emergency Wage Subsidy during the same period of time.

Future Updates

Additional details and guidance on the Canada Emergency Wage Subsidy are expected to be shared by the Federal Government over the coming days and weeks. Filion Wakely Thorup Angeletti LLP continues to closely monitor the developments surrounding the COVID-19 outbreak and will provide additional updates as new information becomes available.

Need more information?

For more information regarding workplace management amidst the COVID-19 outbreak, contact [Cassandra da Costa](#) at 519-435-6009, or your regular lawyer at the firm.



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