



What's New in HR Law

Canada Emergency Wage Subsidy Extended to August 29th

May 19, 2020

The Federal Government has announced it will extend the Canada Emergency Wage Subsidy (the “CEWS”) to August 29, 2020. Prior to this announcement, the CEWS was available to eligible employers from March 15 to June 6, 2020. The additional three months of the program are intended to provide employers with support as they re-open or grow their business, including rehiring employees who may have been laid off, as well as hiring new employees. The program extension will also benefit eligible seasonal employers whose businesses may be impacted by the COVID-19 pandemic.

Additional Entities Now Eligible for the CEWS, Retroactive to March 15, 2020

In addition to the CEWS extension, the Federal Government has also made regulatory changes that expand program eligibility to the following employers:

- Partnerships that are up to 50-per-cent owned by members who would not be considered eligible entities under the CEWS
 - Partnerships will be eligible entities for purposes of the CEWS so long as non-eligible members, taken together, do not hold a majority of the interests in the partnership.

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

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- Indigenous government-owned corporations that are carrying on a business, as well as partnerships where the partners are Indigenous governments and eligible employers;
- Registered Canadian Amateur Athletic Associations;
- Registered Journalism Organizations; and
- Non-public colleges and schools, including institutions that offer specialized services, such as arts schools, driving schools, language schools or flight schools.

These regulatory changes are retroactive so that the above entities may apply for the CEWS as of the first qualifying period, which began on March 15, 2020. While the above employers are now able to apply for the CEWS, they will be required to meet all prescribed eligibility criteria in order to participate in the program.

Proposed Legislative Changes

Calculating the CEWS for Seasonal Employees and Employees Returning from Extended Leave

The Federal Government also intends to propose additional legislative amendments. These proposed changes include an alternative method for employers to calculate an employee's baseline or "pre-crisis" remuneration which is used to determine the employee's subsidy amount. Currently, 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.

An employee's pre-crisis remuneration is currently based on the average weekly remuneration paid to the employee from January 1 to March 15, 2020, excluding any seven-day periods in which the employee did not receive any remuneration. There are also special rules that apply to new employees and employees who do not deal at arm's length with the employer.

The Federal Government is proposing an alternative calculation method that would assist in calculating a baseline remuneration for seasonal employees and for employees who were on leave from January 1 to March 15, 2020.

Under the proposed alternate calculation method, employers would be allowed to use the average weekly remuneration paid to the employee from March 1 to May 31, 2019, excluding any period of seven or more consecutive days in which the employee did not receive any remuneration, as the baseline remuneration to calculate the employee's subsidy amount. Employers would be able to choose which baseline period is most appropriate for calculating the subsidy on an employee-by-employee basis.

This change will be proposed as retroactive and is expected to apply as of the first qualifying period, starting March 15, 2020.

Amalgamations

The Federal Government is also proposing amendments to allow corporations that were formed as an amalgamation of two or more predecessor corporations to calculate their revenue decline using the combined revenues of the corporations. Amalgamated corporations may not use their combined revenues if one of the main reasons for the amalgamation was to qualify for the CEWS. This change is also proposed to be retroactive, and is expected to apply as of the first qualifying period, starting March 15, 2020.

Tax-Exempt Trusts

The Federal Government's legislative proposal also includes amendments to the eligibility of tax-exempt trusts for the CEWS. Under this proposal, tax-exempt trusts with employees will continue to be eligible for the CEWS, subject to the following additional exceptions:

- Where the trust is a tax-exempt entity (other than a public institution), it would qualify only if it is a registered charity or one of the other types of eligible tax-exempt entities; and
- Where the trust is a public institution, it would qualify only if it is a prescribed organization.

This proposed change is expected to apply as of May 10 to June 6, 2020, the third qualifying period, and any subsequent qualifying periods.

Further Amendments Likely, Consultations with Stakeholders in the Next Month

Finally, the Federal Government has indicated it will consult with key business and labour stakeholders over the next month to consider additional potential adjustments to the CEWS program. This may include changes to the current 30% revenue decline threshold that employers must meet in order to be eligible for the CEWS. Interested stakeholders should contact their Member of Parliament to provide any feedback or comments on the CEWS program.

For complete details on the CEWS, including [tips on preparing your application](#) and [an overview of the program](#), please see our earlier updates.

Future Updates

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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