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COVID-19: Details on the Federal Wage Subsidy for All Businesses, Charities and Non-Profit Organizations

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Businesses, regardless of size, charities and non-profit organizations whose revenues have decreased by at least 30% because of the COVID-19 pandemic are now eligible to apply for the Canada Emergency Wage Subsidy. The subsidy is retroactive to March 15, 2020 and covers up to 75% of wages (up to an enumerated threshold) for up to 3 months.

Estimated at $71 billion by the government, this measure is intended to significantly help organizations keep their employees on the payroll during the COVID-19 pandemic and, ultimately, help employers restart their activities faster once the crisis has subsided.

The Announcements

Between March 18 and 30, the federal government laid out a new federal wage subsidy for small businesses (the "10% Wage Subsidy").[1] This measure is restricted to individuals, registered charities, non-profit organizations, Canadian-controlled private corporation under the *Income Tax Act* (Canada) that are eligible for the small business deduction, and partnerships that meet certain criteria. It covers 10% of wages paid from March 18, 2020 to June 19, 2020, for up to 90 days and up to $1,375 for each eligible employee to a maximum of $25,000 total per employer. Employers are responsible for manually calculating the 10% subsidy and can "claim" it by reducing their current payroll remittance of federal, provincial or territorial income tax by the subsidy amount.

On March 30, Prime Minister Trudeau announced an additional, more expansive wage subsidy (the "Canada Emergency Wage Subsidy") available to all businesses (including large public companies), charities and non-profit organizations seeing at least a 30% decrease in revenue due to COVID-19. Yesterday, the much awaited eligibility criteria for the Canada Emergency Wage Subsidy were announced.

Qualifying Criteria

According to the news release issued by the Department of Finance yesterday,[2] Canada's COVID-19 Economic Response Plan[3] and Finance Minister Morneau's press conference, the following details of the Canada Emergency Wage Subsidy have been made available:

- It will apply at a rate of 75% of the first $58,700 normally earned by employees, representing a benefit of up to $847 per week. Employers eligible for the subsidy are required to make their best effort to top-up employees' salaries to bring them to pre-crisis levels.
- The subsidy program will be in place for a 12-week period, from March 15 to June 6, 2020.
- There will be no overall limit on the subsidy amount that an eligible employer may claim.
- Eligible employers will include individuals, taxable corporations, partnerships consisting of eligible employers, non-profit organizations and registered charities.
- Public bodies are not eligible, including municipalities and local governments, Crown corporations, public universities, colleges, schools and hospitals.
- Eligible employers who suffer a drop in gross revenues of at least 30% in March, April or May 2020, when compared to the same month in 2019, will be able to access the subsidy. Employers will have to reapply every month for the subsidy.

- An employer's revenue for this purpose will be revenue from the business carried on in Canada earned from arm's-length sources. Revenue will be calculated using the employer's normal accounting method and will exclude revenues from extraordinary items and amounts on account of capital.
- For non-profit organizations and registered charities similarly affected by a loss of revenue, the government announced that it will continue to work with the sector to ensure the definition of revenue is appropriate to their circumstances and determine whether additional support is needed.
- The entitlement to the wage subsidy will be based entirely on the salary, wages or other remuneration actually paid to employees.[4] Employers will also be eligible for a subsidy of up to 75% of salaries and wages paid to new employees.
- Eligible employers will need to apply for the subsidy through the Canada Revenue Agency's *My Business Account* portal or through a web-based application. More details about the application process will be made available shortly.
- The first payments of the subsidy should be available six weeks from now.

Related Considerations

Organizations that do not qualify for the new Canada Emergency Wage Subsidy may still qualify for the previously announced 10% Wage Subsidy if they can meet the separate criteria for this program.

In addition, it is possible for some employers to qualify for both the 10% Wage Subsidy and the Canada Emergency Wage Subsidy. If that is the case, any amount under the latter will be reduced by any 10% subsidies claimed for the same period. Nevertheless, employers who qualify for both subsidies may wish to consider that the 10% subsidy is available immediately as an offset against payroll remittances, while the government has announced that the first payments for the Canada Emergency Wage Subsidy should not be expected for at least six weeks.

The government warned of "severe" consequences for any person who tries to take advantage of the Canada Emergency Wage Subsidy, and, in this regard, hinted at potential penalties for fraudulent claims and the introduction of new offences if an employer provides false or misleading information in relation to the program. In addition, employers will be required to repay amounts paid under the Canada Emergency Wage Subsidy if they are discovered not to meet the eligibility requirements or pay their employees accordingly.

Employers need to know that the usual treatment of tax credits and other benefits provided by the government to employers will apply to the Canada Emergency Wage Subsidy. As a consequence, the wage subsidy received by an employer will be considered government assistance and will be included in the employer's taxable income (if the employer is taxable).

Looking Ahead

Prime Minister Trudeau also announced yesterday that his government is planning to call Parliament back for another sitting to pass more measures to enhance the emergency legislation already passed in relation to the COVID-19 pandemic. This may or may not result in further refinements to the wage subsidy as announced yesterday.

As well, we have drawn the information above based on the government's public announcements to date. It is possible that additional criteria and nuances may be introduced when more formal requirements are released in the coming days and weeks.

Canada and the provinces' economic response programs are getting more and more fleshed out and complex as the pandemic spreads. We are closely following the measures being announced to address the adverse economic impact on Canadian businesses. If you have any questions about these latest announcements or if you require assistance with the application process, please do not hesitate to contact your Davies lawyer.

[1] Online at https://www.canada.ca/en/revenue-agency/campaigns/covid-19-update/frequently-asked-questions-wage-subsidy-small-businesses.html.

[2] Online at https://www.canada.ca/en/department-finance/news/2020/04/government-announces-details-of-the-canada-emergency-wage-subsidy-to-help-businesses-keep-canadians-in-their-jobs.html.

[3] Online at https://www.canada.ca/en/department-finance/news/2020/04/the-canada-emergency-wage-subsidy.html.

[4] However, it does not include severance pay, or items such as stock option benefits or the personal use of a corporate vehicle.

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