

Helping Employers Understand the Canada Emergency Wage Subsidy

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On April 11, 2020, the *COVID-19 Emergency Response Act, No. 2*, which includes the Canada Emergency Wage Subsidy (the “CEWS”), received Royal Assent and is now available to employers.

We have set out below information that will assist employers understand the key points about the CEWS.

How do I know if I am eligible for the Canada Emergency Wage Subsidy?

The CEWS is available to all “eligible employers,” which includes individuals, corporations, partnerships, non-profits and registered charities. In order to qualify for the CEWS, employers must attest to and provide documentation supporting a decline in monthly revenues of at least 15% in March, and 30% in April and/or May, as compared to either: (i) that same month in 2019; or (ii) the average of the employer’s January and February, 2020 revenue. In calculating revenue for eligibility purposes, employers may use either an accrual (as-earned) or cash (as-paid) accounting method. However, whichever method is chosen must be used in determining eligibility for each of the three months. Affiliated employers are able to compute revenue on a consolidated basis, or on an individual basis. There are special rules for computing revenue for employers who engage in non-arm’s length transactions such as sales to affiliated corporations.

How much is the subsidy?

The CEWS program provides employers with a wage subsidy for a given employee of up to \$847 per week, retroactive to March 15, 2020, for eligible remuneration paid for the period between March 15, 2020 and June 6, 2020 (even newly hired employees). The eligible periods to claim the CEWS are: March 15 to April 11, 2020, April 12 to May 9, 2020, and May 10 to June 6, 2020. The CEWS does not obligate the employer to top-up the employee’s wages above the subsidized amount.

How do I apply for the CEWS?

Eligible employers can apply for the CEWS through the Canada Revenue Agency’s *My Business Account* portal. Employers will have to attest to and provide records of their reduction in revenues and remuneration paid to employees. An employer that qualifies for one subsidy period (e.g. March) automatically qualifies for the subsequent period (e.g. April).

Does the CEWS replace the 10% temporary wage subsidy announced in March?

The CEWS does not replace the 10% temporary wage subsidy announced by the federal government in March. Employers that are not eligible for the CEWS may still qualify for the 10% subsidy, which remain available to certain categories of employer and does not require a reduction in revenue in order to qualify.

Can I take advantage of both subsidies?

An employer cannot take advantage of both subsidies simultaneously. For employers that qualified for the temporary wage subsidy and the CEWS, the amount of the temporary wage subsidy will be deducted from the subsidy under the CEWS program.

Does this mean that I can re-hire all of my employees?

By providing a subsidy of up to \$847 per week per employee, with no overall limit, the CEWS is designed to encourage employers to re-hire employees that had to be terminated or laid-off due to COVID-19. However, in deciding whether – and when – to bring back employees, employers should keep in mind that a subsidy will not be available in respect of remuneration paid to employees that have been without remuneration for more than 14 consecutive days in a given eligibility period. This means that if an employer terminated an employee on April 11, rehires the employee but that employee does not receive remuneration for at least 14 consecutive days between the April, 12 to May 9, 2020 eligibility period, the employer would not be eligible for a wage subsidy in respect of remuneration paid to that employee during that period.

The information and comments herein are for the general information of the reader and are not intended as advice or opinion to be relied upon in relation to any particular circumstances. For particular application of the law to specific situations, the reader should seek professional advice.

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