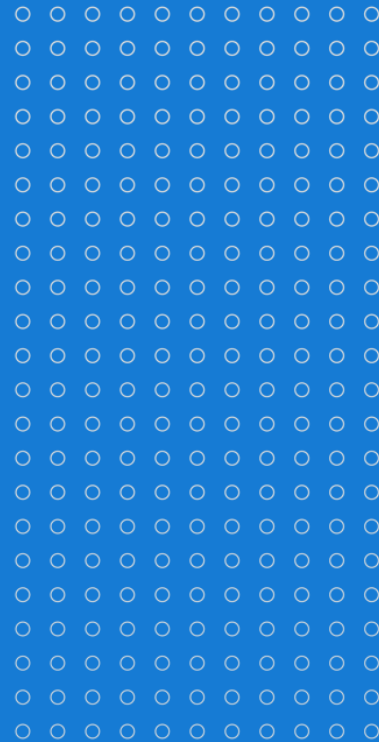



Canadian Federal COVID-19 Relief Measures for Businesses

December 7, 2020





As the COVID-19 pandemic continues to have a significant impact on businesses across Canada, governments continue to respond with programs designed to offer support. Here is a summary of Federal government tax and other measures developed to support business during this challenging time.

Canada Emergency Wage Subsidy

On April 11, Parliament adopted the new Canada Emergency Wage Subsidy (CEWS), which reimbursed employers for 75% of their employees' salaries for those businesses that qualify. This wage subsidy initially applied for a twelve-week period, running retroactive from March 15 to June 6, 2020. The CEWS was first updated in July with an extension and expansion. The latest extension and changes to the program were enacted on November 19, with the government extending the wage subsidy until June 2021 and implementing amendments to the parameters of the wage subsidy that apply until December 19, 2020.

The program is intended to prevent – or at least reduce – further job losses as a result of the COVID-19 pandemic, to encourage employers to recall workers laid off as a result of the crisis, and facilitate a return to normal operations once that becomes possible.

The Federal Government expects employers to make their best efforts to maintain employee salaries at pre-crisis levels. However, what constitutes “best efforts” is not defined in the legislation and is not mandatory. Reductions in pre-crisis salaries may affect wage subsidy amounts and may have other employment consequences.

Although there is a per employee limit on the CEWS, there is no overall limit on the subsidy amount that an eligible employer may claim. Accordingly, the total amount of the CEWS that an employer may claim is limited only by the number of employees.

Eligibility

Employers who may benefit from the subsidy include individuals, corporations, partnerships, non-profit organizations and registered charities. However, public bodies such as municipalities, local governments, colleges and universities, schools, hospitals, and Crown corporations are not eligible for the subsidy.

The CEWS is available for wages paid in ten 4-week qualifying periods from March 15 to December 19, 2020. In order to qualify for the CEWS for qualifying periods ending prior to July 5, an employer must have seen a reduction in revenue of 15% in March of this year, or 30% in April, May or June. This is to be determined based upon either a comparison of revenue for a particular month to the corresponding month in 2019, or to the employer's average monthly revenue over the two-month period from January 1 to February 29, 2020. Employers are free to choose which benchmark to use, but it is important to recognize that the same approach must be used by an employer for each qualifying period ending prior to July 5, 2020.

For the remainder of the qualifying periods, from July through December, there is no minimum revenue reduction required to qualify for CEWS. Employers are eligible for the subsidy if in a qualifying period they have any revenue decline, but the amount of subsidy is dependent on the comparative revenue decline in those qualifying periods. The two approaches for the reduction in revenue determination continue to apply to qualifying periods 5 to 10, but employers can select a different approach for qualifying periods on or after July 5, 2020 than the one used in the preceding periods. Similarly, whichever method is selected must be used for each subsequent period.

Once a business qualifies for one period, it automatically qualifies for the next period. However, a separate application must be filed for each qualifying period, even if the employer automatically qualifies for the CEWS in the period in question by virtue of qualifying for the program in the immediately preceding qualifying period.

Individual Benefit Amounts

Wage subsidies under the CEWS are available to eligible employers for the following ten qualifying periods of four weeks each:

	Qualifying Period
Period 1	March 15 – April 11
Period 2	April 12 – May 9
Period 3	May 10 – June 6
Period 4	June 7 – July 4
Period 5	July 5 – August 1
Period 6	August 2 – August 29
Period 7	August 30 – September 26
Period 8	September 27 – October 24
Period 9	October 25 – November 21
Period 10	November 22 – December 19

For qualifying periods ending prior to July 5, the wage subsidy is equal to 75% of the eligible remuneration paid to eligible employees, to a maximum of \$847 per week, and is calculated as the greater of:

- o 75 per cent of the amount of remuneration paid, up to a maximum benefit of \$847 per week; and
- o the amount of remuneration paid, up to a maximum benefit of \$847 per week or 75 per cent of the employee’s pre-crisis weekly remuneration, whichever is less.

The first of these two options is not available for employees who do not deal at arm's length from the employer. It is likely that the reason for this is to prevent an employer from simply adding a family member onto the payroll and claiming a subsidy, given that the second option is calculated on pre-crisis income, thereby leaving new hires out of the equation. As well, this second option gives rise to the possibility of the CEWS constituting 100% of the remuneration to be paid to an employee. This fact is implicitly recognized in numerous government statements to the effect that "employers are expected where possible to maintain existing employees' pre-crisis employment earnings." In short, for pre-crisis employees, the 25% spread between the subsidized wage and the full wage is at the discretion of the employer. Accordingly, an employer who simply cannot afford any employment costs still has the ability to participate in the program.

For the qualifying periods on or after July 5, the 75% subsidy rate is replaced by a combined percentage representing the eligible employer's base amount of subsidy plus a top-up subsidy of up to an additional 25% for the most adversely impacted employers. For periods 5 and 6 only, a safe harbour rule was introduced to ensure that the wage subsidy available to eligible employers under the new rules is not less than what it would have been under the original rules. For these periods, any eligible employer experiencing at least a 30% decline in revenues will determine its wage subsidy per employee as the greater of:

- o An amount determined under the previous rules (75% of the eligible remuneration paid, to a maximum of \$847); or
- o An amount determined under the new rules (up to 85% of eligible remuneration paid, to a maximum of \$960)

As stated, under the new rules, the overall wage subsidy percentage is equal to the base percentage plus the top-up percentage. The base subsidy consists of a specified base percentage applicable to the amount of eligible remuneration paid by the eligible employer for a qualifying period, on remuneration of up to \$1,129 per week. The specified base percentage varies depending on the level of decrease in qualifying revenue, but a declining maximum base wage subsidy applies to eligible employers with a revenue reduction percentage of 50% or more. For revenue reduction of less than 50%, the base percentage is determined by multiplying the revenue reduction percentage by a factor that declines as described below:

	Revenue Decrease ≥ 50%	Revenue Decrease < %50
Period 5 & 6	60%	1.2
Period 7	50%	1
Period 8 to 10	40%	0.8

The top-up percentage is determined by multiplying the amount by which the eligible employer's top-up revenue reduction percentage exceeds 50% by 1.25. For qualifying periods 5 to 7, the top-up revenue reduction percentage is the amount, expressed as a percentage, by which the employer's average revenue declined in the 3 calendar months prior to the current qualifying

period relative to the corresponding three-month period in 2019 or, its average qualifying revenue from January and February 2020 if the employer elected this method in its CEWS application. For qualifying periods 8 to 10, the top-up revenue reduction percentage is based on the greater of the revenue reduction as calculated above and the revenue reduction percentage of the eligible employer for the qualifying period.

An eligible employer will be entitled to a top-up amount of subsidy only where its top-up revenue reduction percentage exceeds 50%, and it will reach the maximum top-up amount of 25% where its top-up revenue reduction percentage is 70% or greater.

CRA has an online calculator available for employers to calculate the wage subsidy. Please see the following link: <https://www.canada.ca/en/revenue-agency/services/subsidy/emergency-wage-subsidy/cews-calculate-subsidy-amount.html>

Eligible Remuneration

Eligible remuneration to be used in these calculations may include salary, wages, commissions, and other remuneration. That is, all amounts that are usually subject to withholding or deductions that are to be remitted to the Receiver General in respect of the employee's income tax obligations. Eligible remuneration does not, however, include severance pay, or items such as stock option benefits or the personal use of a corporate vehicle.

An employee's baseline remuneration can be determined by the average weekly eligible remuneration paid to them from January 1 to March 15, 2020, or:

- For periods 1 to 3, from March 1 to May 31, 2019
- For period 4, from March 1 to June 30 or May 31, 2019; and
- For periods 5 to 10, from July 1 to December 31, 2019.

The choice of period can be made on an employee-by-employee basis, but in all cases, any period of seven or more consecutive days that the employee was without remuneration is excluded from the calculation. Additionally, for the qualifying periods 1 to 4, employees must not have been without remuneration for 14 or more consecutive days to be eligible. This condition does not apply for the qualifying periods after July 5, 2020. Thus, an employer may be entitled to a subsidy for these periods in respect of remuneration paid to employees who were on leave without pay for more than 14 consecutive days or who were hired in the later stages of a qualifying period.

Deeming Rules

In order to provide greater certainty to employers in these very uncertain times, once an employer found eligible for a particular qualifying period that is one of the first three qualifying periods, it is automatically considered to have experienced the required reduction in revenue for the immediately following qualifying period. However, as stated, a separate application must be filed for each qualifying period, even if the employer automatically qualifies for the proceeding period.

The deeming rule that is applicable to qualifying periods 1 to 4 does not apply to qualifying period 5 and subsequent periods. For qualifying periods after July 5, if an eligible employer had a greater reduction in revenue in the immediately preceding qualifying period than it has otherwise determined for the current qualifying period, the reduction in revenue for the immediately preceding period is deemed to be the eligible employer's reduction in revenue for the purposes of determining its base wage subsidy amount for the current qualifying period. However, a reduction in revenue considered to be the current qualifying period's reduction in revenue as a result of this deeming rule cannot apply beyond the current claim period.

How to Apply

Applications for the CEWS have been taken since April 27, 2020. Applications in respect of a qualifying period can be made only after the end of the qualifying period, and provided the eligible employer has paid the remuneration used to calculate the wage subsidy for that period. Additionally, wage subsidy applications must be made on or before the later of January 31, 2021, and 180 days after the end of the qualifying period.

The Canada Revenue Agency *My Business Account* portal will provide the means of doing so. Please see <https://www.canada.ca/en/revenue-agency/services/subsidy/emergency-wage-subsidy/cews-how-apply.html>. Although the level of detail that is needed for an application is not extensive, nevertheless it is essential for participating employers to maintain and have available for review, financial records to show both that the necessary revenue shortfall took place, and that employees have been appropriately paid.


Paid Leaves of Absence

Over and above the CEWS itself, the program also provides for a 100% refund of the employer share of Employment Insurance premiums and Canada Pension Plan contributions for any week over the course of which an employee performs no work for the employer but is paid nevertheless. This provides a level of relief for employers who keep employees on payroll at a subsidized percentage of pre-crisis salary (or re-hire them) despite having no work available in a particular week.

Under the early CEWS program, no distinction was made between remuneration paid to eligible employees who are reporting to work and those who are on paid leave. However, for the qualifying periods beginning on or after July 5, 2020, a new set of rules was implemented for employers to determine their subsidy entitlement in respect of employees who have been temporarily laid off with pay (including pay at a rate lower than their pre-layoff pay rate). The amount of the subsidy available for employees on paid leave is determined automatically when you use the online calculator linked above.

Ensuring Compliance

Penalties may apply where a CEWS application is granted based on a fraudulent claim. As well, where an employer is subsequently found not to meet the eligibility requirements, it will be required to repay any amounts paid to it under the CEWS.



If an employer goes so far as to engage in artificial transactions to reduce revenue for the purpose of claiming the CEWS, or in respect of qualifying periods 5 to 9, increasing the amount of wage subsidy, then in addition to being required to repay in full the subsidy received, there will be a penalty imposed equal to 25% of the value of the amount claimed.

In addition, the general gross negligence penalty under the *Income Tax Act* has been extended to apply to amounts received under the CEWS. Thus, if an employer knowingly, or under circumstances amounting to gross negligence, makes a false statement or omission in its wage subsidy application for a qualifying period, the employer is liable to a penalty of up to 50% of the difference between the amount of wage subsidy that it claimed in its application and the amount of wage subsidy to which it is actually entitled.

Interaction with Other Programs

The 10% wage subsidy that was included in earlier COVID-19 response legislation announced on March 18, 2020 will, in most cases, reduce the amount available to be claimed under the Canada Emergency Wage Subsidy in that same period.

The CEWS is government assistance. As such, it must be included in the employer's taxable income. Similarly, since it did not originate from the employer's pocket, any amounts received must be deducted from the payroll numbers that determine employer's eligibility for any other federal tax credits.

Employers eligible for the CEWS may already be participating in a work-sharing program as part of the Employment Insurance system. If so, then the EI benefits already being received by employees through that arrangement will reduce the benefit that the employer is entitled to receive under the CEWS.

An employer is not eligible to claim a wage subsidy for wages paid to an employee within any 4-week qualifying period during which the employee also became eligible for [CERB](#) (Canada Emergency Response Benefit). Under CERB, a laid off employee is eligible for a taxable benefit of \$2,000 every 4 weeks for up to 16 weeks.

Limitations

It should be pointed out that while the CEWS provides a very welcome benefit to a great many businesses, it is not of assistance to a business that pays no wages. A corporation that pays its owner a salary may claim the subsidy on that salary, but at the same time, a very similar corporation whose owner receives income by way of dividends from the corporation has no ability to claim the very same benefit. Similarly, the CEWS provides no relief to sole proprietors who earn self-employment income instead of wages. Given that the government continues to fine tune its COVID-19 response programs on an ongoing basis, it remains to be seen whether issues such as these will be addressed at a later date.



Alternatives to CEWS

Most businesses, whether or not they are eligible for the CEWS Program, may be well advised to consider whether they could nevertheless qualify for any of the following initiatives of the federal government.

In order to be eligible for the loan programs listed below, a business must have been impacted directly or indirectly by recent events and must have been financially viable prior to the impact from COVID-19.

EDC Guarantee

Effective March 24, 2020, [EDC is stepping up to support all exporting companies by offering their bank a guarantee on loans of up to \\$5M so that companies can access more cash immediately.](#) For more details, contact us.

The Government of Canada has also broadened the domestic powers for Export Development Canada (EDC) during the COVID-19 crisis. Through the [Business Credit Availability Program \(BCAP\), EDC will guarantee new operating credit and cash-flow term loans that financial institutions extend to small- to medium-sized enterprises, up to \\$6.25 million.](#) The program cap for this guarantee will be a total of \$20 billion for export sector and domestic companies.

A small enterprise is a business that employs up to 99 employees. A medium sized business is one that employs 100 to 499 employees. A large business is one that employs 500 employees or more.

Business Development Bank of Canada Co-Lending Program

This will also be a joint co-lending program between the Business Development Bank of Canada (BDC) and financial institutions. Small and medium-sized businesses can get support through a new Co-Lending Program that will bring the BDC together with financial institutions to co-lend term loans to these businesses for their operational cash flow requirements. Eligible businesses may obtain incremental credit amounts up to \$6.25 million, 80% of which would be provided by BDC, with the remaining 20% by a financial institution. The BDC's portion of this program will be up to \$5 million maximum per loan.

Canada Emergency Business Account

On April 6, the Federal Government announced The Canadian Emergency Business Account will now provide up to \$40,000 in interest free government-guaranteed loans to businesses that had payrolls last year between \$20,000 and \$1.5 million. Since its launch, the government has made modifications to CEBA to help even more small businesses, including making CEBA available to owner-operated small businesses that do not have a payroll, sole proprietors receiving business income directly, as well as family-owned corporations remunerating in the form of dividends rather than payroll. Repaying the loan on or before December 31, 2022 will result in a loan forgiveness of 25% (up to \$10,000).



IRAP

SR&ED (Scientific Research and Development) activities are often funded by governmental programs such as the federal Industrial Assistance Research Program (IRAP). On April 17, 2020 the Federal Government announced that it is adding \$250 million to the IRAP program.

HST

The CRA has allowed all businesses to defer, until the end of June 2020, any GST/HST payments or remittances that become owing on or after March 27, 2020, and before June 2020. No interest will apply to payments or remittances are made by the end of June 2020.

The deadline for businesses to file their returns is unchanged. HST returns should continue to be filed on a timely basis. [However, recognizing the difficult circumstances faced by businesses, the CRA may not impose penalties where a return is filed late provided that it is filed by June 30th.](#)

Income Tax Returns Filing and Payment Extension

An extension has been granted to corporations who were required to file their tax returns after March 18 and before June 1, 2020. These corporations had up to June 1, 2020 to file their corporate income tax return.

An extension was been granted to September 1, 2020 for income tax balances due under Part 1 of the Income Tax Act on or after March 18 and before September 1, 2020.

Computer Equipment Purchases

On April 14, 2020, the CRA stated at the [APFF](#) (Association de planification fiscale et financière) that in the context of the COVID crisis, the CRA is willing to accept a reimbursement of an amount not exceeding \$500 for the purchase of personal computer equipment to be principally for the benefit of the employer. In other words, the \$500 would not be a taxable benefit to the employee.

Commercial Rent Relief

On April 24, the Federal Government announced the Canada Emergency Commercial Rent Assistance program, which provides rent relief to small businesses. This will provide loans and/or forgivable loans to commercial property owners who in turn lower or forgo the rent of small businesses for the months of April (retroactively), to September.

In response to criticisms that the program relied on buy-in from landlords, many of whom did not participate in the program, the government created the new Canada Emergency Rent Subsidy to provide payments directly to qualifying renters, without requiring the participation of landlords. Similar to the CEWS, the rent subsidy is tiered based on a scale of revenue reductions. The program will be open until June 2021 and is retroactive to September 27, 2020.



Keeping Up with Change

As Canadian individuals and businesses alike work to survive one of the most dramatic economic disruptions in our country's history, governments at all levels are adapting existing programs and introducing new ones at an unprecedented rate. Daily monitoring is essential to ensure that businesses are aware of the opportunities currently being provided by Federal government assistance programs.

Neither Hub International Limited nor any of its affiliated companies is a law or accounting firm, and therefore they cannot provide legal or tax advice. The information herein is provided for general information only, and is not intended to constitute legal or tax advice as to an organization's specific circumstances. It is based on Hub International's understanding of the law as it exists on the date of this publication. Subsequent developments may result in this information becoming outdated or incorrect and Hub International does not have an obligation to update this information. You should consult an attorney, accountant, or other legal or tax professional regarding the application of the general information provided here to your organization's specific situation in light of your organization's particular needs.

Get the latest information, guidance and resources on Coronavirus (COVID-19) to help you protect what matters most at hubinternational.com/coronavirus. For additional support, please reach out to your local HUB office.