



75% CANADA EMERGENCY WAGE SUBSIDY (“CEWS”)

The Government of Canada passed into law on Saturday April 11th 2020 Bill C-14 the **COVID-19 Emergency Response Act No. 2** which provides a 12 week wage subsidy of up to \$847 per employee per week:

- to “eligible entities”
- in respect of “eligible remuneration”
- paid to “eligible employees”
- during a “claim period” (four week periods from March 15 to June 6, 2020)¹

The subsidy is meant to help businesses keep and return employees to work.

The CRA expects to be able to process applications through the My Business Account Portal on the CRA website or through an online portal available in the next 2 to 4 weeks.

General Rules

The weekly wage subsidy is equal to the weekly remuneration paid to eligible employees capped at \$847 per week, subject to the following 2 exceptions:

- if an employee does not deal at arm's length with the eligible entity (such as a controlling shareholder or a person related to the controlling shareholder), the weekly wage subsidy will be the lesser of 75% of the **baseline remuneration** and 75% of the remuneration actually paid to the non-arm's length employee for the week, up to a maximum of \$847.

DMCL OBSERVATION

If a non-arm's length employee was not paid remuneration for the January 1 to March 15, 2020 period, the employee's baseline remuneration will be nil and the entity will not be entitled to any subsidy in respect of such employee, even if they are paid in the Claim Period.

- if an arm's length employee's *baseline remuneration* was less than \$1,129 per week, then the weekly wage subsidy will be the greater of 75% of the baseline remuneration and 75% of the remuneration actually paid to the employee for the week, up to a maximum of \$847.

In order for an *eligible entity* to be entitled to the wage subsidy, it must:

- file an application with the Minister in prescribed form and manner before October 2020,

¹ * The Minister of Finance has the power to extend it to September 30, 2020



DALE MATHESON CARR-HILTON LABONTE LLP
 CHARTERED PROFESSIONAL ACCOUNTANTS

- the individual who has principal responsibility for the financial activities of the eligible entity must attest that the application is complete and accurate,
- the entity’s **qualifying revenues** for the **current reference period** must be less than the **specified percentage** (85% or 70%) of qualifying revenues for the **prior reference period**, and
- the entity had on March 15th 2020 a payroll account number with the CRA.

DMCL OBSERVATION

An entity which carries on an investment business or a specified investment business² may qualify for the 75% wage subsidy so long as it meets all of the conditions for the subsidy to apply and pays remuneration to its employees.

The *reference periods* and *specified percentages* of revenues in respect of the following Claim Periods are as follows:

| CLAIM PERIOD | CURRENT REFERENCE PERIOD | PRIOR REFERENCE PERIOD | ALTERNATIVE PRIOR REFERENCE PERIOD | SPECIFIED PERCENTAGE OF REVENUES |
|----------------------------|--------------------------|------------------------|------------------------------------|----------------------------------|
| March 15 to April 11, 2020 | March 2020 | March 2019 | Average January & February 2020 | 85% |
| April 12 to May 9, 2020 | April 2020 | April 2019 | Average January & February 2020 | 70% |
| May 10 to June 6, 2020 | May 2020 | May 2019 | Average January & February 2020 | 70% |

An eligible entity may use January and February 2020 as its Prior Reference Period for all Claim Periods in determining whether it has met the drop in qualifying revenue condition if either:

- on March 1st 2019 it was not carrying on business or not otherwise carrying on its ordinary activities, or
- it elects to use January and February 2020 as its prior reference period.

DMCL OBSERVATION

An entity that has higher average qualifying revenues for January and February of 2020 compared to the applicable prior reference periods in March, April and May of 2019 may want to elect to use January and February of 2020 as its prior reference period as it may more easily qualify for the decrease in qualifying revenue test.

² such as a business the principal purpose of which is to earn income from property including interest, dividends, rents and royalties



DALE MATHESON CARR-HILTON LABONTE LLP
CHARTERED PROFESSIONAL ACCOUNTANTS

Definitions

Baseline remuneration - the average weekly eligible remuneration paid to eligible employees from January 1st to March 15th, 2020 excluding any period of 7 or more consecutive days for which the employee was not remunerated.

Eligible employee - an individual employed in Canada **other than an individual who was not remunerated for 14 or more consecutive days** in the 4 week Claim Period.

DMCL OBSERVATION

If the employee was not paid a salary or wages for at least 14 consecutive days in the Claim Period, then the employer is not entitled to claim the subsidy in respect of the employee for the Claim Period. However, the employee may be eligible to the \$2,000 per month Canadian Emergency Response Benefit (“CERB”).

Eligible Entity - a corporation that is not exempt from tax and is not a *public institution*, an individual, a registered charity other than a *public Institution*, certain tax-exempt persons other than a *public institution*, and a partnership all of the members of which are eligible entities.

Eligible Remuneration –means salaries, wages and other remuneration other than:

- a retiring allowance including severance pay,
- an employee stock option benefit,
- **WATCH:** any amount received that could be expected to be paid or returned, directly or indirectly in any manner whatever, to the eligible entity, to a person or partnership not dealing at arm's length with the entity or to another person or partnership at the direction of the entity, and
- **WATCH:** any amount that is paid in respect of a week in the Claim Period if as part of the arrangement, the amount is in excess of the eligible employee's Baseline Remuneration and after the Claim Period, the eligible employee is reasonably expected to be paid a lower weekly amount and one of the main purposes of the arrangement is to increase the 75% wage subsidy.

Qualifying Revenues

Means the **inflow of cash, receivables or other consideration** arising in the course of the entity's ordinary activities in Canada and generally from the sale of goods, the rendering of services and the use by others of its resources and is to be determined using the entity's “normal accounting practices”.

Qualifying revenues are subject to the following rules:



DALE MATHESON CARR-HILTON LABONTE LLP
CHARTERED PROFESSIONAL ACCOUNTANTS

- for registered charities and certain tax exempt entities, they may elect to exclude funding received from government sources in the determination of their qualifying revenues,
- qualifying revenues are to exclude extraordinary items and items received on account of capital,
- qualifying revenues are to **exclude amounts derived from persons or partnerships that do not deal at arm's length with the entity**, and
- qualifying revenues are to exclude the 75% wage subsidy and the 10% temporary wage subsidy.

WATCH: Anti-avoidance Rule and Penalty regarding Qualifying Revenues

An entity will NOT be entitled to the 75% wage subsidy if:

- the eligible entity enters into any or a series of transactions or events or takes an action (or fails to take any action) that has the effect of reducing the qualifying revenues for the particular period, and
- it is reasonable to conclude that one of the main purposes is to cause an eligible entity to qualify for the 75% wage subsidy.

Every eligible entity that is caught under this anti-avoidance rule is subject to a **penalty equal to 25% of the amount of the wage subsidy** that they applied for in their application for the Claim Period.

Election to Determine Qualifying Revenues on a Cash Basis

As well, an eligible entity may make an election which applies to all 3 Claim Periods to determine its qualifying revenues on a cash basis within the meaning assigned by the rules that apply to farmers and fishermen.

DMCL OBSERVATION

An entity that is not suffering a reduction in revenues but a slowdown in collection of accounts receivable because of COVID-19 or that has been prepaid for their revenues may be eligible for the 75% wage subsidy if they make the election to determine their qualifying revenues on a cash basis.

Election to Consolidate Revenue

An eligible entity and each member of an affiliated group of eligible entities (i.e. the consolidated group) may jointly elect to determine their qualifying revenues on a consolidated basis.

DMCL OBSERVATION

Consider this election if the consolidated group's revenue has experienced the 15% or 30% decline but an entity in the group has not suffered the revenue decline, if this would entitle such entity to claim the subsidy. The election may also help if qualifying revenue is reported in one eligible entity but remuneration is paid in another entity.



Qualifying Revenues - Special Rules

1. If an eligible entity meets the specified percentage drop in qualifying revenues for a particular Claim Period, it is deemed to have met the drop in qualifying revenues in the next Claim Period.

DMCL OBSERVATION

GOOD NEWS! Once an entity meets the specified percentage drop in qualifying revenues condition for say the March Claim Period, it will be deemed to have met this condition for the April Claim Period. Similarly, if it met the condition for the April Claim Period, it is deemed to have met it for the May Claim Period

2. Where all or substantially all (generally considered to be 90% or more) of an eligible entity's qualifying revenues are from non-arm's length persons or partnerships and a joint election is made, the revenues of the non-arm's length persons and partnerships may be considered in the determination of whether the qualifying entity meets the decrease in qualifying revenue test.

DMCL OBSERVATION

Consider this election if 90% or more of the eligible entity's qualifying revenues are derived from non-arm's length persons or partnerships where the entity has not suffered the revenue decline but the total of the qualifying revenues of the entity and non-arm's length persons and partnerships has experienced the 15% or 30% decline.

Other Rules

1. The Minister may publish to the public the name of any person or partnership that makes an application for the 75% wage subsidy.
2. The 75% wage subsidy is reduced by claims for the 10% Temporary Wage Subsidy for the particular Claim Period.
3. Eligible employers may also receive a 100% refund of employer-paid contributions to Employment Insurance (EI) and the Canada Pension Plan (CPP) in respect of eligible employees for each week that they are on leave with pay and the employer is entitled to claim the 75% wage subsidy in respect of the employee.
4. The subsidy is deemed to be an overpayment of income tax and, therefore, we expect it can be refunded or applied to another outstanding account such as GST/HST.
5. The subsidy received must also be included in the employer's income for tax purposes; but this should be offset by the remuneration paid to employees.



1500 – 1140 W. Pender Street
Vancouver, BC V6E 4G1
TEL 604.687.4747 | FAX 604.689.2778

DALE MATHESON CARR-HILTON LABONTE LLP
CHARTERED PROFESSIONAL ACCOUNTANTS

**If you need further information or assistance with the new 75% Canada Emergency Wage Subsidy,
please contact your DMCL Business and Tax Advisor.**

DMCL

Vancouver • Tri-Cities • Surrey • Victoria