



Federal Government Extends and Amends Wage Subsidy, Introduces Rent Subsidy

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With no end to the pandemic in sight, the federal government continues to provide support to affected businesses, charities, and non-profit organizations. The Canada Emergency Wage Subsidy (CEWS), a major pillar of the government's support, continues to be tweaked and extended. The government has also introduced a new rent subsidy which compliments the CEWS. This article discusses this new rent subsidy and recent changes to the CEWS.

Extending CEWS Again

The CEWS was originally planned to span from March 15 to June 6, 2020 and has been extended several times since its inception. Most recently, the federal government extended the CEWS to June 2021. However, the base and top-up subsidy rates for beyond December 19,

2020 have yet to be announced, so the base subsidy rate will remain at 40% at least until that date. The top-up subsidy remains at 25%.

Freezing the Base Subsidy Rate

Originally, the CEWS provided a 75% subsidy, but that rate was gradually reduced to 40%. The base subsidy rate was going to further decline to 20% beginning October 25, but the government decided to freeze the base rate at 40%. The 40% rate will apply at least until December 19, 2020. Since the CEWS has been extended to June 2021, the federal government must eventually announce the rates applicable to future periods.

Top-Up Subsidy Eligibility

To make the top-up wage subsidy more responsive to sudden changes in revenue, the revenue-decline test for the top-up subsidy and base subsidy have been harmonized effective September 27. Prior to this change, the top-up subsidy was determined based on a three-month revenue-decline test. Going forward, eligibility for top-up subsidy is determined by the change in an eligible employer's year-over-year revenue for a given month. Therefore, an employer with revenue loss of 70% or greater is eligible for a 65% wage subsidy.

This change will make the top-up subsidy available to more employers who are affected by the second wave. For example, employers that experienced stronger revenues during the summer months but are currently experiencing a drop in revenue would have

otherwise compared to average revenue from the prior three months when qualifying for the top-up subsidy. Fortunately, the test is now based on the current month's revenue as compared to the same month in the prior year.

From September 27 to December 19, the federal government is also allowing a safe harbour for the top-up subsidy. An eligible employer is entitled to a top-up wage subsidy rate no less than the rate that it would be entitled to if its entitlement were calculated under the three-month revenue-decline test. Basically, if an employer's top-up subsidy as computed using the harmonized method is less than what they would have received under the old method, they can receive the amount as computed under the old method.

CEWS for Furloughed Employees

Months ago, the federal government stated that it would introduce a special CEWS rate structure that applies specifically to furloughed employees. This structure is necessary to align the CEWS with the benefits provided by Employment Insurance (EI). The result of this alignment is that furloughed employees are treated equally under both programs.

The new rate structure is applicable to Periods 9 (October 25 to November 21) and 10 (November 22 to December 19)—no details have been provided with regard to any subsequent periods. The CEWS calculation for a furloughed employee would be the lesser of:

- the amount of eligible remuneration paid in respect of the week; and
- the greater of:
 - \$500, and
 - 55% of pre-crisis remuneration for the employee, up to a maximum subsidy amount of \$573.

Although the government has not stated as such, presumably the base and top-up subsidy rates would then be multiplied by the result from above to determine the subsidy that is payable.

Technical Changes

The government also added flexibility to who is considered an eligible an employee for the purposes of the CEWS. Originally, an eligible employee had to be employed by the eligible entity in Canada in the qualifying period. The rule has been

amended so an eligible employee is an individual who is employed primarily in Canada throughout the period (or the portion of the period throughout which the individual was employed by the entity). In other words, the federal government has added flexibility for employees who work primarily (90% or greater) in Canada but may sometimes work outside the country. The government has also added flexibility for employees who were not employed for the entire period (e.g., new hires).

Part of the CEWS calculation for an employee is dependent on the employee's "baseline remuneration". The government has introduced relieving changes that affect the calculation of the baseline remuneration of an employee who is returning from maternity leave, parental leave, caregiver leave or long-term sick leave.

These changes apply retroactively to when the CEWS was first introduced.

Canada Emergency Rent Subsidy

The federal government has introduced the new Canada Emergency Rent Subsidy (CERS) and a top-up subsidy called the Lockdown Support. These subsidies are available from September 27, 2020 to June 2021. The CERS is available to entities that are an eligible entity for the purposes of the CEWS. Also similar to the CEWS, eligibility for the CERS and the amount thereof are dependent on the entity's revenue reduction percentage that is computed by comparing the period in the current year to same period in the prior year. Alternatively, the entity can elect to have January and February 2020 as the prior reference period, in which case the average monthly revenue for those months is used to measure the revenue reduction percentage.

The rent subsidy percentage is based on the entity's revenue reduction percentage for the period. For qualifying periods 8 to 10, which span from September 27 to December 19, the CERS percentages are as follows:

Revenue reduction percentage for the qualifying period	Rent subsidy percentage
Greater than or equal to 70%	65%
Greater than or equal to 50% but less than 70%	40% + (revenue reduction percentage – 50%) x 1.25
Less than 50%	0.8 x revenue reduction percentage

This percentage is multiplied by the lesser of the entity's qualifying rent expense for a "qualifying property" for the period, and \$300,000. If the entity is affiliated with another eligible entity that is claiming the CERS, the parties must agree to share the \$300,000 monthly limit (if they do not, they cannot make a claim). For periods commencing after December 19, the government will specify what the rent subsidy percentages will be.

The qualifying rent expense is limited to \$75,000 per qualifying property per period. A qualifying property is basically a property in Canada used by the eligible entity in the course of its ordinary activities. The qualifying rent expense includes rent paid for the use of the qualifying property under a lease or renewal of a lease agreement. If the entity owns the property it can claim mortgage interest, property taxes, and insurance.

Lockdown Support

An eligible entity may also claim a 25% top-up rent subsidy known as the Lockdown Support, as part of the CERS. The Lockdown Support is calculated by multiplying the top-up percentage by the qualifying rent expense for the qualifying period. The top-up subsidy applies for the part of a qualifying period in which the entity is subject to a public health restriction. If the public health restriction does not apply

for the entire period, the top-up is reduced proportionately. In general terms, a public health restriction is a government order or decision made because of the pandemic, and, as a result of the order or decision, some or all of the activities of the eligible entity at, or in connection with, the qualifying property are required to cease for at least one week. Furthermore, it must be reasonable to conclude that at least approximately 25% of the qualifying revenues of the eligible entity for the prior reference period that were earned from, or in connection with, the qualifying property, were derived from the restricted activities.

Application and Payment

To claim the CERS, the eligible entity must be a "qualifying renter" for a qualifying period, which requires that it file an application with the CRA in respect of the qualifying period within 180 days after the end of the qualifying period and meet additional conditions.

Since the entity is deemed to have paid excessive tax equal to the CERS, the CRA will pay a refund equal to that amount. Like the CEWS, the CERS is a taxable benefit, and is thus included in the entity's income for tax purposes.