CORPORATE **Newsletter**

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2021 Federal Budget — Tax Changes for Small Business

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The long-awaited 2021 federal Budget ("Budget 2021") was presented on April 19, 2021. It was the first official federal budget to be presented since March 2019. From a tax perspective, Budget 2021's proposed changes mostly target large multinational businesses and aggressive tax planning. However, there are a few new measures affecting small businesses. These notably include changes to the Canada Emergency Wage Subsidy and Canada Emergency Rent Subsidy, a new Canada Recovery Hiring Program, and immediately expensing up to $1.5 million (per year) of newly acquired capital assets. All the new tax changes affecting small businesses that you should be aware of are discussed below.

Canada Emergency Wage Subsidy ("CEWS")

Extending the CEWS

Budget 2021 proposes to extend the CEWS from the previous end date of June 5, 2021 until September 25, 2021. It also proposes to gradually decrease the subsidy rate, starting on July 4, 2021. This proposed gradual decrease is intended to ensure a systematic phase-out of the CEWS as vaccinations are administered and the economy reopens. The government could also extend the CEWS beyond September 25, 2021 to November 20, 2021 if needed.

The base subsidy will gradually decline from 40% to 10%. The top-up subsidy will gradually decline from 35% to 10%. Of course, an entity's actual subsidy entitlement will depend on their revenue reduction percentage for the relevant period.

With the introduction of the new Canada Recovery Hiring Program, another subsidy for employers suffering revenue decline due to the pandemic, eligible employers can claim the higher of the CEWS and the newly proposed Canada Recovery Hiring Program.

Restricting Executive Compensation

Budget 2021 introduces measures to ensure that the CEWS has not been used to increase executive compensation. Where a publicly listed company, or a company controlled by a publicly listed company, received the CEWS and pays specified executives more in 2021 than in 2019, Budget 2021 proposes to require the company to repay wage subsidy amounts received for any qualifying period starting after June 5, 2021. A corporation must generally repay the amount by which the corporation's aggregate specified executives' compensation for 2021 exceeds its aggregate specified executives' compensation for 2019.

Baseline Remuneration

An eligible employer's entitlement to the CEWS for certain employees is based on a calculation that includes the employee's current and pre-crisis remuneration. Baseline remuneration means the average weekly eligible remuneration paid to an eligible employee by an eligible employer from January 1, 2020 to March 15, 2020. However, the employer can elect to use an alternative baseline period for calculating the average weekly eligible remuneration.

To ensure the alternative baseline remuneration periods continue to reflect the corresponding calendar months in the qualifying period, Budget 2021 proposes to allow eligible employers to elect to use the following alternative baseline remuneration periods:

- March 1 to June 30, 2019 or July 1 to December 31, 2019, for the qualifying period between June 6, 2021 and July 3, 2021; and
- July 1 to December 31, 2019, for qualifying periods beginning after July 3, 2021.

Canada Emergency Rent Subsidy ("CERS") and Lockdown Support

Budget 2021 proposes to extend the CERS for four more four-week periods, ending on September 25, 2021. The government may further extend the CERS until November 20, 2021. The rent subsidy percentage will be gradually reduced, starting on July 4, 2021, and qualifying renters who have experienced a decrease in qualifying revenues of no more than 10% will no longer be eligible for the base amount of the CERS. The 25% lockdown support will continue to be available for qualifying renters who qualify for the base rent subsidy.

Budget 2021 also introduces a rule that deems an eligible entity who purchases the assets from another entity to be a qualifying renter where certain conditions are met.

Canada Recovery Hiring Program

Budget 2021 proposes to introduce the Canada Recovery Hiring Program ("CRHP") to provide eligible employers that continue to experience declines in revenues relative to pre-pandemic levels with a subsidy of up to 50% on the incremental remuneration paid to eligible employees in each qualifying period (that is four weeks in duration) between June 6, 2021 and November 20, 2021. This new subsidy incentivizes employers to increase their payroll by rewarding them for doing so.

Eligible Employers

Employers eligible for the CEWS are also generally eligible for the CRHP. However, an eligible employer can only claim either the CRHP or the CEWS in a qualifying period, but not both.

Eligible employers include individuals, non-profit organizations, registered charities, certain partnerships and Canadian-controlled private corporations (including cooperative corporations that are eligible for the small business deduction), that had a payroll account open with the CRA on March 15, 2020, which precludes new businesses from participating in this program.

Ineligible employers include corporations that are not Canadian-controlled private corporations, and corporations and trusts that are public institutions (i.e., Crown corporations, public universities, hospitals, etc.).

Eligible Employees

An eligible employee must be employed primarily in Canada by an eligible employer throughout a qualifying period (or the portion of the qualifying period throughout which the individual was employed by the eligible employer).

Employees that are on leave with pay ("furloughed employees") are not eligible for the hiring subsidy, except for employees on a period of paid absence, such as a vacation leave, sick leave or a sabbatical.

Eligible Remuneration and Incremental Remuneration

Eligible remuneration includes salary, wages, and other remuneration paid in respect of a qualifying period for which employers are required to withhold or deduct amounts on account of the employee's income tax obligations, but not severance pay, or items such as stock option benefits or personal use benefits.

Incremental remuneration is the difference between an employer's total eligible remuneration paid to eligible employees for the qualifying period and its total eligible remuneration paid to eligible employees for the baseline period (March 14, 2021 to April 10, 2021). Total eligible remuneration paid in both periods is subject to a cap of $1,129 per week per employee, and in the case of non-arm's length employees, their eligible remuneration for a week cannot exceed their baseline remuneration determined for that week.

Subsidy Amount

If an eligible employer's decline in revenues exceeds the revenue-decline threshold for a qualifying period, its subsidy in that qualifying period is equal to its incremental remuneration multiplied by the applicable hiring subsidy rate for that qualifying period (the hiring subsidy rate for each qualifying period ranges between 20 to 50% in descending order).

Revenue-Decline Threshold

To qualify for the hiring subsidy in a qualifying period, an eligible employer must have experienced a decline in revenues sufficient to qualify for the CEWS in that qualifying period, and for all other qualifying periods (between July 4, 2021 and November 20, 2021) a decline of more than 10% relative to the same calendar period pre-pandemic (i.e. in 2019). Alternatively, an employer can elect to compare the month's revenues relative to the average of its January 2020 and February 2020 revenues, but once an employer chooses one of the approaches it must continue to use that approach in future periods.

Immediate Expensing

Budget 2021 introduces a temporary immediate expensing measure to encourage capital investments across various sectors of the economy. Normally, the capital cost allowance ("CCA") system allows businesses to gradually write off the cost of acquiring capital property.

The new measure temporarily allows Canadian-Controlled Private Corporations ("CCPCs") to immediately expense costs of certain property. The immediate expensing applies only to "eligible property" that is:

1. acquired by a CCPC on or after April 19, 2021, and
2. available for use before January 1, 2024.

The maximum amount of immediate expensing is limited to $1.5 million per taxation year and is only available in the year the property first becomes available for use. This new immediate expensing rule does not alter the total amount of CCA that can be deducted over the life of the property, but rather allows for a larger deduction taken in the first year, resulting in smaller deductions, if any, in future years.

Eligible property under the new immediate expensing regime includes capital property that is subject to the CCA rules, but it excludes buildings and intangible assets. Also, various existing restrictions under the CCA rules will apply to the immediate expensing rules. Additional restrictions have also been proposed such that property that has been used, or acquired for use, for any purpose before it was acquired by the taxpayer is only eligible for immediate expensing if the property meets both of the following conditions:

1. neither the taxpayer nor a non-arm's length person previously owned the property; and
2. the property has not been transferred to the taxpayer on a tax-deferred rollover basis.

For CCPCs that acquire eligible capital property in a taxation year exceeding $1.5 million, the CCPC can decide which CCA class the immediate expensing is to be attributed and any excess capital costs will be subject to the normal CCA rules. A CCPC can immediately expense up to $1.5 million, in addition to all other CCA claims, provided that the total CCA deduction does not exceed the capital cost of the property. Additionally, the $1.5 million limit is shared among associated members of a group of CCPCs.

For CCPCs with less than $1.5 million of eligible capital costs, no carry-forward of excess capital is permitted.

GST/HST Input Tax Credits

For a business to claim a GST/HST input tax credit ("ITC"), it must obtain documented evidence that is sufficient to support its claim. Information requirements to support an ITC claim (to be provided by either the supplier or an intermediary) are graduated, with progressively more information required when the amount paid or payable in respect of a supply equals or exceeds thresholds of $30 or $150. Budget 2021 proposes to increase the current ITC information thresholds from $30 to $100 and from $150 to $500.

Moreover, for the purposes of these rules, an intermediary currently does not include a billing agent (i.e., an agent that collects consideration and tax on behalf of an underlying supplier but does not otherwise cause or facilitate a supply). Budget 2021 proposes to allow billing agents to be treated as intermediaries for purposes of the ITC information rules.

Other Tax Measures for Business

Rate Reduction for Zero-Emission Technology

Manufacturers of zero-emissions technologies will qualify for reduced corporate tax rates. The rate is reduced to 7.5% if the income would be subject to the general rate, or the rate is reduced to 4.5% if the income would be subject to the small business rate. Income must be zero-emission technology manufacturing and processing income.

CCA for Clean Energy Equipment

CCA Class 43.1 and 43.2 will be expanded to provide accelerated CCA to additional types of technological investments.

Audit Authorities

The Budget proposes amendments to clarify that CRA officials have the authority to require persons to answer all proper questions and provide reasonable assistance. An amendment will also clarify that persons must respond to questions in writing or orally, including in any form specified by the CRA individual.

Application of the GST/HST to E-commerce

Budget 2021 proposes changes to the proposed legislation that was initially presented with the 2020 Fall Economic Statement. These changes take into consideration feedback from stakeholders.