

Goodmans^{LLP} Update

What We Know About Canada's Emergency Wage Subsidy So Far

Last Friday, Prime Minister Justin Trudeau announced the federal government's plan to implement the Canada Emergency Wage Subsidy (CEWS), a 75% wage subsidy for eligible employers, intended to help employers meet their payroll obligations and avoid employee layoffs and terminations during the revenue challenges resulting from COVID-19. The CEWS does not replace the previously announced 10% wage subsidy for eligible employers, including small businesses, charities and non-profits. The interaction between these two wage subsidies is discussed below.

Yesterday, additional details of the CEWS were announced, with more [details](#) released last night in the Ministry of Finance Department's backgrounder. While the full details of CEWS may not be available until the legislative framework for CEWS is tabled in Parliament, here is what we know so far:

How much is the subsidy?

The subsidy amount for any given employee on eligible remuneration paid between March 15 and June 6, 2020 would be the greater of:

- 75% of the amount of remuneration paid, up to a maximum benefit of \$847 per week; and
- The amount of remuneration paid, up to a maximum benefit of the lesser of \$847 per week or 75% of the employer's pre-crisis weekly remuneration.

While questions remain as to how pre-crisis weekly remuneration will be calculated, the federal government indicated the remuneration may include salary, wages and other remuneration, including amounts from which employers would generally be required to withhold or deduct on account of the employee's income tax obligation, but excluding severance pay, or items such as stock option benefits or an employee's use of a corporate vehicle. A special rule will apply to employees who do not deal at arm's length with the employer and the subsidy amount for these employees will be limited to the eligible remuneration paid in any pay period between March 15 and June 6, 2020, up to a maximum of \$847 per week or 75% of the employee's pre-crisis weekly remuneration.

There is no overall limit on the subsidy amount an eligible employer may claim.

Who will be eligible?

With the exception of public sector entities, employers of all sizes and across all sectors are eligible if they have experienced a decline in their gross monthly revenue by at least 30% compared to the same period in 2019. The decline of 30% will be calculated by comparing the revenue from March, April or May 2020 to the same month in 2019. Eligibility will be determined on a monthly basis.

An employer's revenue for this purpose would be its revenue from its business carried on in Canada earned from arm's-length sources. Revenue would be calculated using the employer's normal accounting method, and would exclude revenues from extraordinary items and amounts on account of capital.

Authors



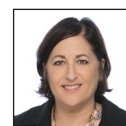
Luke Bell
lbell@goodmans.ca
416.849.6011



Lauren Butti
lbutti@goodmans.ca
416.597.6259



Joe Conforti
jconforti@goodmans.ca
416.597.4177



Susan Garvie
sgarvie@goodmans.ca
416.597.4141

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What is the eligibility period for employers?

Employers will be able to claim the subsidy for the following periods with the following reference period for eligibility:

- The period retroactively commencing March 15 to April 11, with the reference period of March 2020 over March 2019;
- The period commencing April 12 to May 9, with the reference period of April 2020 over April 2019; and
- The period commencing May 10, 2020 to June 6, 2020, with the reference period of May 2020 over May 2019.

What happens if a relative monthly revenue comparison is not possible or appropriate in the circumstances?

Additional details are expected as the government is still working out how it will respond to situations where it is not possible or appropriate to compare 2020 to 2019 revenues.

The Finance Minister acknowledged there are examples of employers, including new startups and employers with seasonal revenue, that have experienced revenue declines owing to COVID-19, but cannot demonstrate the drop by comparing revenue in March, April or May 2020 to the corresponding month in 2019. In situations like these, the government may be flexible in allowing employers to show a reduction in revenues compared to the preceding months. However, questions remain as to how revenue comparisons may be made for employers with revenues impacted over the past year due to, for example, significant business or product line acquisition or divestiture.

For businesses established after February 2019, the government indicated eligibility would be determined by comparing monthly revenues to a reasonable benchmark.

How can employers apply?

Eligible employers will be able to apply online through the CRA's My Business Account online portal. The portal is expected to be available in the next three to six weeks.

About 90% of employers already have an online CRA account. Employers that intend to apply for CEWS and do not have an online CRA, are encouraged to establish one.

Employers will need to re-apply for the CEWS each month the program operates.

How will the employer satisfy the eligibility requirements?

To collect the subsidy, employers will need to keep records demonstrating:

- a 30% (or greater) reduction of arm's-length revenue; and
- the amount of remuneration paid to employees compared to the amount of remuneration paid to employees pre-crisis.

Once the CRA receives evidence of the above, it will remit the funds directly to employers. Employers are encouraged to set up direct deposit accounts with the CRA to receive funds faster.

When will funds be available?

The funds are expected to be available in six weeks.

Are employers required to top-up the remaining 25% of employees' salaries?

All employers are expected to make “best efforts” to pay employees 100% of their salaries and will need to attest they are doing everything they can to pay the remaining 25% of employee wages. While it is understood that some employers will not be able to top up their employees' salaries, any employer that is able to pay salaries in full is expected to do so.

The government will rely largely on the honour system to ensure employers are, in fact, making best efforts to pay salaries in full, but both the prime minister and the finance minister made it clear there will be serious consequences for employers that try to take advantage of the subsidy.

Does the CEWS replace the previously announced 10% wage subsidy?

No, the 75% wage subsidy does not replace the previously announced 10% subsidy for eligible employers, including employers that cannot demonstrate a 30% decline in revenue.

However, for employers that are eligible for the CEWS and the 10% wage subsidy for a period, any benefit from the 10% wage subsidy for remuneration paid in a specific period would generally reduce the amount available to be claimed under the CEWS in the same period.

The 10% wage subsidy is retroactive to March 18 and will last until June 20. It allows for a maximum subsidy of \$1,375 per employee and \$25,000 per employer. Unlike the CEWS, which is paid directly to the employer, the 10% wage subsidy simply allows employers to reduce their remittances to the CRA. For more information on the 10% wage subsidy, see the federal government's [webpage](#) or contact any member of our [Tax Law Group](#) or our [Employment and Labour Group](#).

Can an employer claim the CEWS for an employee receiving the Canadian Emergency Response Benefit?

An employer cannot claim the CEWS for remuneration paid to an employee in a week that falls within a 4-week period for which the employee is eligible for the Canadian Emergency Response Benefit.

Looking forward

As additional details are made available, we will send further updates.

If you have any questions about the CEWS, please contact any member of our [Employment and Labour Group](#).