Tax Changes related to COVID-19

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Manu Kakkar

- Manu has over 20 years of experience in taxation in both domestic and international, personal and corporate taxation as well as litigation support.
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We're All Feeling This Way





Tax Deadlines - Individuals

- Individuals without self-employment income
 - T1 Filing Deadline extended to June 1, 2020
 - Payment Deadline extended to September 1, 2020
 - Installment Deadline of June 15, 2020 extended to September 1, 2020
- Individuals with self-employment income
 - T1 Filing Deadline is unchanged at June 15, 2020
 - Payment Deadline extended to September 1, 2020
 - Installment Deadline of June 15, 2020 extended to September 1, 2020
- Revenu Quebec is offering the same relief as above



Tax Deadlines - Corporations

- Corporations with filing deadlines between March 18, 2020-May 31, 2020
 - T2 Filing Deadline extended to June 1, 2020
- Corporations with amounts due between March 18, 2020-May 31, 2020
 - Payment Deadline of only Part I tax extended to September 1, 2020
 - This applies to both installments and year end balances owing.
 - Taxes charged under other Parts of the Income Tax (eg Part IV, Part VI.1, do not have extensions and are still subject to their usual payment dates)
- Revenu Quebec is offering the same relief as above



Tax Deadlines – Trusts (Federal)

- Trusts with year ends of December 31, 2019
 - T3 Return Filing Deadline extended to May 1, 2020
 - T3 Slips Filing Deadline extended to May 1, 2020
 - Payment Deadline extended to September 1, 2020
 - Any installment payment due before September 1, 2020 is extended to September 1, 2020
- Trusts with due dates in April, 2020 or May, 2020
 - T3 Return Filing Deadline extended to June 1, 2020
 - T3 Slips Filing Deadline extended to June 1, 2020
 - Payment Deadline extended to September 1, 2020
 - Any installment payment due before September 1, 2020 is extended to September 1, 2020



Tax Deadlines – Trusts (Quebec)

- Trusts with filing deadlines of March 30, 2019 (other than GRE and SIFTs)
- (note subtle difference in wording from Federal)
 - T3 Return Filing Deadline extended to May 1, 2020
 - T3 Slips Filing Deadline extended to May 1, 2020
 - Payment Deadline extended to September 1, 2020
 - Any installment payment due before September 1, 2020 is extended to September 1, 2020
- 2019 Trusts that are GRE's and have filing deadlines after March 16, 2019
 - T3 Return Filing Deadline extended to May 1, 2020
 - T3 Slips Filing Deadline extended to May 1, 2020
 - Payment Deadline extended to September 1, 2020
 - Any installment payment due before September 1, 2020 is extended to September 1, 2020
- Trusts that are SIFTS
 - Payment Deadline extended to September 1, 2020
 - Any installment payment due before September 1, 2020 is extended to September 1, 2020



Tax Deadlines - Other

- Partnerships with year ends of December 31, 2019
 - T5013 Return Filing Deadline extended to May 1, 2020
 - CRA has remained silent on 2019 T5013 Returns that are due on May 31, 2020
 - Quebec TP-600-V Return Filing Deadline extended to May 1, 2020
- Partnerships with year ends other than December 31, 2019
 - CRA has remained silent on this point
 - Where all partners are corporations, Quebec TP-600-V Return Filing Deadline of March 16, 2020-May 1, 2020 is extended to May 1, 2020,
 - For all other partnerships, Quebec TP-600-V Return Filing Deadline is of March 16, 2020-May 1, 2020 is extended to May 1, 2020
- NR4 Returns
 - NR4 Return Filing Deadline extended to May 1, 2020
 - Remittances of Part XIII tax must still be made on time.
- Information Returns
 - All information returns that would be due between March 18, 2020 and June 1, 2020 are extended to June 1, 2020.



Tax Deadlines - Other

- Administrative Measures (Federal)
 - It has been confirmed by unofficial sources that all returns, forms, elections, designations and requests for information that would be due between March 18, 2020 and June 1, 2020 are extended to June 1, 2020
 - The following items are excluded from the above extension:
 - SR&ED Filings
 - Payroll deductions
- Administrative Measures (Quebec)
 - All administrative deadlines (including elections) that would fall on or after March 18, 2020 and May 31, 2020 are extended to June 1, 2020
 - The following items are excluded from the above extension:
 - Consumption Taxes
 - Contributions
 - Source deductions and remittances



Tax Deadlines - Other

- Commodity Tax
 - Certain extensions on remitting GST/HST are available depending on the frequency of the filer
 - All QST remittances that are due between March 31, 2020 – May 31, 2020 are now due on June 30, 2020.
- Pre-existing interest payments
 - If balances cannot be paid for COVID reasons but have not been specifically addressed in the relief measures, CRA has commented that they will review fairness applications to waive interest on a case by case base
 - We would therefore assume that interest would continue to accrue on unpaid amounts due prior to March 18, 2020.



Canada Emergency Business Account ("CEBA")

- Loans will be provided to small businesses on an interest-free basis
- The loans are being implemented by most chartered banks.
- Each bank has their own application process most banks are requiring that the applications be done online and not through their branches.
- The national banks have begun accepting applications today (April 9th, 2020) on an on-line basis.
- Loans will be available to a maximum of \$40,000.



Canada Emergency Business Account ("CEBA")

- To qualify, entities will need to have a payroll between \$50,000 and \$1,000,000 in 2019, based on their 2019 T4 Summary.
- The Government has been silent on any further guidance as to who qualifies.
 - What if company was in start-up phase in 2019 or only paid dividends in 2019? Based on the guidance released to date they would not qualify for CEBA
- Repaying the loan by December 31, 2022 will result in loan forgiveness of 25% of the loan principal. The forgiven amount is likely taxable but the Government has not yet commented on this point.
- If the loan cannot be repaid by this date, it will likely be converted into an interest-bearing term loan



- A benefit of \$2,000 per four week period, to a maximum of 16 weeks will be available
- Individuals apply for the CERB four weeks at a time.
- To qualify, based on the legislation, individuals must meet the following conditions:
 - Residents of Canada
 - Have reached 15 years of age
 - Earned at least \$5,000 from employment, self-employment or maternity/parental benefits during the 12 month period prior to applying (does not need to be earned from same source as immediate pre-covid employment/self employment)
 - Ceased work because of illness or job loss (not resignation) for 14 consecutive days and:
 - Without income for those 14 consecutive days in that period
- Note that CRA's pronouncements state that an individual must have no income in each subsequent period after the first one but this is not consistent with the legislation
- Note that the \$5,000 income test originally did not include dividends, a recent pronouncement states that ineligible dividends will be included.



- Applications can be done through Service Canada or CRA beginning on April 6th
- Individuals should set up online CRA accounts ASAP if they do not already have one.
- Applications can be made at any time for any four week period up until December 2nd, 2020.



- Applications can be made in two ways, either online or by phone.
- To make an online application, you will need the following:
 - Period you want to apply for
 - A declaration that you qualify
 - Confirm payment information
- To make a phone application, you will need the following:
 - SIN
 - Confirmation of postal code
 - Period you want to apply for
 - A declaration that you qualify



- Those who have applied for EI for COVID related benefits after March 18, 2020 and have not begun receiving benefits will have their claim automatically transferred to CERB
- Those who are already receiving EI for regular or sickness benefits should not apply for CERB until EI has ended.
- The CERB will be taxable in 2020; note that there is no provision for withholding taxes at source therefore expect to have taxes owing when your 2020 T1 is filed



- The following are examples as to whom the benefit could apply:
 - Workers who must stop working due to COVID-19 and do not have access to paid leave or other income support
 - Workers who are sick, quarantined or taking care of someone who is sick with COVID-19
 - Working parents who must stay home without pay to care for sick children or need additional care because of school and daycare closures
 - Workers who have been temporarily laid off
 - Wage earners and self-employed individuals, including contract workers, who are not eligible for Employment Insurance.



CERB – Issues & Uncertainty

- Overpayment or erroneous payment, as the case may be, must be repaid as soon as feasible.
- No action or proceedings are to be taken to recover money owing after the expiry of the six-year limitation (may be extended a further 6 years in certain circumstances) that begins on the day on which the money becomes due and payable
- Money owing may be recovered by offsetting it against any sum of money payable by the government to the individual, including an income support payment, with the exception of Canada Child Benefit
- No interest will be charged on erroneous payments and overpayments. Should everybody who is uncertain apply?
- Employees should keep records of why they lost their jobs
- An employer cannot make a claim for the 75% wage subsidy if the employee is receiving the CERB for the same period. Based on recent pronouncements, the employer can only claim the wage subsidy if an employee has been paid for 14 or more days during a period, while the employee can claim CERB if he was unpaid for 14 consecutive days.
- The Government has remained silent on whether or not a similar condition exists for the 10% wage subsidy.



CERB – Issues & Uncertainty

 Individuals remunerated in 2019 by "surplus stripping" or eligible dividends and otherwise would fail the \$5,000 test presumably could make a salary payment today (or remit source deductions) and thus qualify for CERB

- Company has ceased operations for COVID
- Company has the following monthly payroll
 - Dad \$4,000
 - Mom \$1,667
 - Son \$1,700
 - Daughter \$700
 - Arms' length employee \$2,100
- Consider laying off Mom, Son and Daughter as they would be better off receiving \$2,000 CERB
- Company could claim 10% subsidy for employee
- Company could also claim 75% subsidy for employee
- Company could receive a subsidy of 75% of \$4,000 for Dad = \$3,000 – this would leave Dad in a better off position



- Issues:
 - CERB is fixed at \$2,000 per month, therefore Mom, Son and Daughter would be receiving more in CERB than their salaries. This doesn't appear to make sense but the draft legislation and government releases have not addressed this.
 - The 75% subsidy for Dad would be based on "pre-crisis weekly remuneration," which at this point has not been defined by legislation therefore we are using its literal meaning
 - The government has made a general comment that an Employer cannot "double dip" on the 10% subsidy and 75% subsidy, but has not explained how this will work.



- Self-employed real estate agent had gross commissions greater than \$5,000
- Reported a loss after expenses
- Does she meet the \$5,000 income threshold to claim CERB?
 - The draft legislation refers to "total income" of \$5,000 but does not define this term.
 - Nor is "total income" defined anywhere else in the Act.
 - "Total income" does however appear as line 150 on the T1 form, which would report net self employment income rather than gross
 - Further, CPP and certain EI benefits for self-employed workers are based on net income
 - Therefore we would assume CERB is also based on net income
 - Note that employment income presumably is based on gross.



- CCPC has 2 50%-50% owner-managers
- First year of business was 2019
- Start-up phase, no remuneration paid to date.
- First owner-manager had salary from different employer in 2019, second owner manager had nothing.
- First owner-manager could qualify for CERB, second could not; could pay him a salary now to meet the \$5,000 test.
- Would not qualify for CEBA (\$40,000 loan) because payroll test not met.
- 10% Wage Subsidy likely available
- 75% Wage Subsidy only available if drop in revenue test is met



10% Wage Subsidy for Employers



Legislation

- Bill C-13
- An Act respecting certain measures in response to COVID-19
- Subsection 153(1.02) Calculation
- Subsection 153(1.03) Definitions
- Subsection 153(1.04) Deemed Remittance
- <u>https://www.parl.ca/DocumentViewer/en/43-1/bill/C-13/royal-assent</u>



Eligible Employers

- Employs one or more eligible employees;
 - Eligible employee means an individual who is employed in Canada.
- A registered business number to make remittances on March 18, 2020
- (i) A CCPC or the purposes of section 125 that
 - Would have a business limit for its last taxation year that ended before the start of the eligible period greater than nil, if the amount determined for paragraph 125(5.1)(b) were deemed to be nil, or
 - If the corporation does not have a taxation year that ended before the start of the eligible period, would meet the condition in clause (A) if its taxation year ended immediately before the start of the eligible period,
- (ii) An individual (other than a trust),
- (iii) A partnership, all of the members of which are described in subparagraphs (i) to (iii) or (v),
- (iv) Not for profits
- (v) A registered charity



Sole Proprietors

- Not employees of their business
- Only claim subsidy on eligible remuneration paid to their employees, not themselves



Canadian Controlled Private Corporations

- To claim wage subsidy
 - Must have a small business deduction limit greater than nil allocated in the prior year
 - Adjusted Aggregate Investment Income grind-down not applicable
 - Taxable capital for associated group must be below \$15 Million



Payroll Remittances

- The subsidy is accessed by reducing the employer's remittances of income tax withheld on eligible remuneration
- Excludes payroll taxes such as CPP and EI
- Excludes payroll remittances made to Revenue Quebec
- No deferral on payroll remittances must be paid on time
- Eligible remuneration means salary, wages or other remuneration **paid** to an eligible employee during the eligible period



Eligible Remuneration

- Eligible remuneration means salary, wages or other remuneration paid to an eligible employee during the eligible period.
- The "payment date" must be between March 18th and June 19th for the wage subsidy to apply.
- Eligible remuneration occurred before March 18th that is paid on or after March 18th will be eligible for the subsidy.
- Employees must be "still employed" on the date of any eligible payments to be considered an eligible employee.
- Remuneration paid after June 19th will not be considered eligible remuneration, even if amounts were earned during the eligible period



How is it Calculated?

- The legislation calculates the subsidy as the minimum of three amounts:
 - Maximum per employer of \$25,000.
 - Fixed rate of 10% of the remuneration paid to eligible employees during the eligible period
 - Total number of eligible employees multiplied by a fixed amount of \$1,375.



Free worksheet

Download at www.taxtemplates.ca/wage-subsidy

Remuneration payment date	March 18									
New eligible employees										
Total eligible employees		-	-	-	-	-	-	-	-	-
Total eligible remuneration paid										
Employees' CPP contributions										
Employees CPP contributions Employer's CPP contributions										
Employees' EI premiums										
Employees El premiums										
Income tax deductions										
(Subsidy applied)	-	-	-		_	-	-	-	-	-
Payroll remittance payable	-	-	-	-	-	-	-	-	-	-
Reference	Ref	Ref	Ref	Ref	Ref	Ref	Ref	Ref	Ref	Ref
Employer limit of \$25,000										
Employer limit of \$25,000										
Maximum amount	-	-	-	-	-	-	-	-	-	-
Maximum amount (Previously claimed)	-	-	-	-	-	-	-	-	-	-
Maximum amount	-	-		-	-		-	- -		
Maximum amount (Previously daimed) Employer limit Per-employee limit of \$1,375			-			-			-	
Maximum amount (Previously claimed) Employer limit Per-employee limit of \$1,375 Maximum amount			-			-			-	
Maximum amount (Previously claimed) Employer limit Per-employee limit of \$1,375 Maximum amount (Previously claimed)	-		-		-	-	-	-	-	
Maximum amount (Previously claimed) Employer limit Per-employee limit of \$1,375 Maximum amount	-	-	-		-	-	-	-	-	
Maximum amount (Previously claimed) Employer limit Per-employee limit of \$1,375 Maximum amount (Previously claimed) Employee limit	-	-	-	-	-	-	-	-	-	
Maximum amount (Previously claimed) Employer limit Per-employee limit of \$1,375 Maximum amount (Previously claimed) Employee limit Eligible remuneration limit of 10% Maximum amount	-	-	-	-	-	-	-	-	-	
Maximum amount (Previously claimed) Employer limit Per-employee limit of \$1,375 Maximum amount (Previously claimed) Employee limit	-	-		-	- -	-	-	-	-	



Understanding the Employee Threshold

- Each employee does NOT have an individual subsidy balance.
- Each eligible employee increases the wage subsidy available to the employer by \$1,375



Employee Threshold Example

Remuneration payment date	March 31	April 30
New eligible employees		1
Total eligible employees	2	3
Total eligible remuneration paid	27,500.00	27,600.00
Employees' CPP contributions		
Employer's CPP contributions		
Employees' El premiums		
Employer's El premiums		
Income tax deductions	10,000.00	
(Subsidy applied)	(2,750.00)	•
Payroll remittance payable	7,250.00	-

Employer limit of 25,000	Mar
Maximum amount	
(Previously claimed)	
Employer limiit	

March 31	April 30	
25,000	25,000	٦
	(2,750)	
25,000	22,250	

Per-employee limit of 1,375

Maximum amount	2,750	4,125	
(Previously claimed)	-	(2,750)	
Employee limit	2,750	1,375	

Eligible remuneration limit of 10%

Maximum amount	2,750	5,510	
(Previously claimed)	-	(2,750)	
Eligible remuneration limit	2,750	2,760	

Unclaimed wage subsidy			
Opening balance	-	-	
Subsidy claimed	2,750.00	1,375.00	
(Subsidy applied)	(2,750.00)	-	
Reduction to subsidy applied			
Closing balance	•	1,375.00	



Timing Differences

- CRA income tax deductions are below 10% of eligible remuneration creates an unapplied wage subsidy.
 - Can be applied for payment periods after June 19th
- Reduce future remittances to catch-up on missed wage subsidy



Maximize the Subsidy

- To maximize the \$25,000 per employer requires at least 19 eligible employees during the eligible period.
- The \$25,000 maximum limit per employer is not shared amongst related or associated groups of companies.
 - Consider payroll costs e.g. double CPP contributions
- Allocate small business deduction limit of at least \$0.01



Wage Subsidy is Taxable

Include as income in the year in which the subsidy is received



Books and Records for CRA

- You will need to keep information to support your subsidy calculation. This includes:
 - the total remuneration paid from March 18, 2020 to June 19, 2020;
 - the federal, provincial, or territorial income tax that was deducted from that remuneration; and
 - the number of eligible employees paid in that period.
- The CRA is currently updating reporting requirements. More information on how to report this subsidy will be released in the near future.



Canada Emergency Wage Subsidy



Legislation

- Not yet available
- Department of Finance Backgrounder on April 1st
- <u>https://www.canada.ca/en/department-</u> <u>finance/news/2020/04/the-canada-emergency-wage-</u> <u>subsidy.html</u>
- Further Department of Finance Backgrounder on April 8th
- <u>https://www.canada.ca/en/department-finance/economic-response-plan/wage-subsidy.html</u>



MAY 2020							
Sun	Mon	Tue	Wed	Thu	Fri	Sat	
					1	2	
3	4	5	6	7	8	9	
10	11	12	13	14	15	16	
17	18	19	20	21	22	23	
24	25	26	27	28	29	30	
31							



Interaction with 10% Wage Subsidy

• Any benefit from the 10 per cent wage subsidy for remuneration paid in a specific period would generally reduce the amount available to be claimed under the Canada Emergency Wage Subsidy in that same period.



Interaction with CERB

- Originally it was announced that an employer would not be eligible to claim the Canada Emergency Wage Subsidy ("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.
- It was subsequently announced that the CEWS could be claimed for employees only where employees have been paid for 14 consecutive days in the 4-week period
- Employers who are not eligible for the Canada Emergency Wage Subsidy would still be able to furlough employees who will receive up to \$2,000 a month.



Eligible Employers

- Individuals
- Taxable corporations
- Partnerships (other eligible employers)
- Non-profit
- Registered charities
- Public bodies would not be eligible for this subsidy. Public bodies include municipalities and local governments, Crown corporations, public universities, colleges, schools and hospitals.



Eligibility

- Drop of at least 15 per cent of their revenue during first eligible period
- Drop of at least 30 per cent of their revenue during second and third eligible periods

Eligible Periods					
	Claiming period	Required reduction in revenue	Reference period for eligibility		
Period 1	March 15 to April 11	15%	•March 2020 over: •March 2019 or •Average of January and February 2020		
Period 2	April 12 to May 9	30%	•April 2020 over: •April 2019 or •Average of January and February 2020		
Period 3	May 10 to June 6	30%	•May 2020 over: •May 2019 or •Average of January and February 2020		



Revenue Calculation

- 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.
- Exclude revenues from extraordinary items and amounts on account of capital.
- Eligibility would generally be determined by the change in an eligible employer's monthly revenues, year-over-year, for the calendar month in which the period began or change from an average of January and February, 2020
- For eligible employers established after February 2019, eligibility would be determined by comparing monthly revenues to a reasonable benchmark.



Revenue Questions/Concerns

- 15%/30% revenue decline test for the month criteria unknown until end of the month
- Revenue drops by 14%/29% turn away customers to meet 15%/30%?
- Uncollectable receivables/Bad debts expense
- Tracking arm's length revenue
- Separate lines of business
- Invoicing is done annually
- Live profit and loss statements



Refund of Payroll Contributions

- The Government has proposed to expand the CEWS by allowing a 100% refund for employer-paid contributions to EI, CPP, QPP and QPIP.
- The refund would be allowed for each week in which an employee is paid but does not perform any work. The refund would be determined on an employee by employee basis.
- The refund is over and above the weekly maximum of \$847 that is discussed earlier.
- Employers still need to collect and remit source deductions until such time as they apply for the refund, which is done concurrent with the application for CEWS.



Interaction with Work-Sharing

- Work sharing program has been extended from 38 weeks to 7 weeks
- Based on the April 7th pronouncement, EI benefits received by employees through the Work-sharing program will reduce the benefit that their employer is entitled to receive under the subsidy
 - This seems to unfairly reduce the employer's ability to claim the subsidy – maybe this will change when legislation is released?



Subsidy Calculation

- Government will cover up to 75% on the first \$58,700 earned (CPP Limit)
- Calculation of subsidy for arm's length employees:
- Greater of:
 - Lessor of
 - 75% of remuneration paid
 - \$847 per week
 - Lessor of
 - Amount of remuneration paid
 - \$847 per week
 - 75% of employee's pre-crisis weekly remuneration



Subsidy Calculation

- Calculation of subsidy for non-arm's length employees:
 - Lessor of
 - Amount of remuneration paid
 - \$847 per week
 - 75% of employee's pre-crisis weekly remuneration
- This prevents an employer from increasing a NAL salary post-covid and claiming an increased subsidy.
- Further, non-arm's length must have been employed prior to March 15, 2020 to be eligible for the subsidy



Subsidy Calculation Details

- Eligible remuneration **paid** between March 15 and June 6, 2020.
- There is no employer cap.
- Employers would be expected where possible to maintain existing employees' pre-crisis employment earnings.
- Employers will also be eligible for a subsidy of up to 75 per cent of salaries and wages paid to new employees.
- Eligible remuneration does not include severance pay, or items such as stock option benefits or the personal use of a corporate vehicle.
- Special rules for non-arm's length employees



Subsidy Calculation Questions

- How is pre-crisis wages or salary determined?
 - April 7th backgrounder suggested that it would be based on avg. weekly remuneration paid between Jan 1 and March 15, excluding any 7-day periods where no remuneration has received (note: this has not yet been legislated)
- What is the calculation for employees not on a salary?
- Contractors vs employees hire contractors as new employees?
- Defined employee for week (1 day, 7 days)?
- Calculation weekly?
- Calculation by period (4 weeks)?
- Calculation for entire period (up to 12 weeks)?



Application and Penalties

- My Business Account Portal
- Web-based application
- Anti-abuse rules
- Harsh penalties
- Imprisonment
- Government backgrounder indicated penalty of 25% of the subsidy claimed, spoken comments indicate penalty could be up to 225%
- Future audit of subsidy
- Audit other company activities



Suggestions

- Government conditions for subsidy
- Businesses must agree/attest
- Corporate clawback based on metrics



Other Measures



Ontario – Employer Health Tax

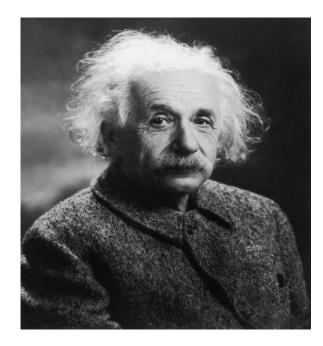
- <u>https://budget.ontario.ca/2020/marchupdate/annex.html</u>
- Limit increased from \$490,000 to \$1,000,000 for 2020
- Maximum savings of \$9,945 (1.95% * (\$1,000,000 \$490,000)
- Improves after-tax ROI on salary vs dividends for taxpayers impacted.
- Greater benefit when combined with Temporary wage subsidy.



Questions



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