20 May 2020

Global Tax Alert

News from EY Americas Tax

Canada extends eligibility for Emergency Wage Subsidy

Executive summary

On 15 May 2020, the Federal Government announced the extension of the Canada Emergency Wage Subsidy (CEWS) to 29 August 2020, the retroactive broadening of the eligibility for the CEWS to additional groups, as well as further proposed changes.

The Government also indicated that it will consult key business and labor representatives over the next month on potential adjustments to the program, including the 30% revenue decline threshold. No further details have been provided.

Detailed discussion

Extension of the CEWS

Currently in place until 6 June 2020, the CEWS will be extended for another 12-week period up to 29 August 2020.

As noted above, it is expected that certain program parameters (such as the 30% revenue test) may be adjusted following the Government's consultation with key business and labor representatives over the coming month. We will provide an update on the changes once they are announced.

Eligibility broadening

The eligibility for the CEWS will be retroactively extended, through regulatory changes, to the following five additional groups back to 11 April 2020 (so that the CEWS will apply for these groups back to the first qualifying period that started on 15 March 2020). The related draft regulations, which include these five groups as prescribed organizations under the definition of "eligible entity" in subsection 125.7(1) of the *Income Tax Act*, were also released on 15 May 2020.

- **Partnerships that are up to 50% owned by non-eligible members** – Partnerships with non-eligible members will be recognized as eligible entities as long as the fair market value of interests in the partnership held (directly or indirectly) by non-eligible entities (at all times in the qualifying period) does not exceed 50% of the fair market value of all interests in the partnership.
- **Indigenous government-owned corporations that are carrying on a business** – Indigenous government-owned corporations that are carrying on a business and are tax-exempt under paragraph 149(1)(d.5) of the *Income Tax Act* will be recognized as eligible entities. The same will apply to their wholly owned subsidiaries that are carrying on a business and are tax-exempt under paragraph 149(1)(d.6), as well as partnerships where each partner of the partnership is either an Indigenous government or an eligible employer. Indigenous governments will include First Nation bands, self-governing Indigenous governments, and other comparable Indigenous governing bodies.
- **Registered Canadian amateur athletic associations (RCAAAs)** – National-level RCAAAs that are exempt under paragraph 149(1)(g) will be recognized as eligible entities.
- **Registered journalism organizations** – Registered journalism organizations that are exempt under paragraph 149(1)(h) will be recognized as eligible entities.
- **Non-public educational and training institutions** – Non-public educational and training institutions, whether for-profit or not, will be recognized as eligible entities. This will include private colleges and private schools, including private institutions that offer specialized services, such as arts schools, driving schools, language schools, culinary schools or flight schools.

Additional proposed changes

To ensure the CEWS meets its intended objectives, the Government also announced additional changes that correct certain known issues with the rules. The proposed amendments include:

- **Alternative baseline remuneration period** – To provide flexibility for employers of existing employees who were not regularly employed in early 2020, including for example seasonal employees and individuals who were on parental, disability or unpaid leave during the period 1 January to 15 March 2020, employers will be permitted to calculate baseline remuneration on an alternative basis. Specifically, an employer may choose to calculate an employee's baseline remuneration as the average weekly remuneration paid to the employee during the period 1 March to 31 May 2019 (excluding any period of seven or more consecutive days without remuneration). The choice of which period to apply can be made on an employee-by-employee basis. This change applies retroactive to 11 April 2020 (which means it will apply to the first qualifying period that started on 15 March 2020).
- **Amalgamated corporation's benchmark revenue** – To ensure that the CEWS applies appropriately to corporations formed on the amalgamation of two or more predecessor corporations (or where a corporation is wound up into another), an amalgamated (or combined) corporation will be permitted to calculate benchmark revenue for the decline in revenue test using the combined revenues of the predecessor corporations. This amendment provides a more relevant revenue benchmark for amalgamated (or combined) corporations. This option will not be available to the amalgamated (or combined) corporation if it is reasonable to consider that one of the main purposes for the amalgamation (or the winding up) was to qualify for the CEWS. This change applies retroactive to 11 April 2020 (which means it will apply to the first qualifying period that started on 15 March 2020).
- **Exclusion of certain trusts** – To better align the eligibility of trusts with that of corporations, the definition of an "eligible entity" will be amended to exclude certain trusts. Specifically, a tax-exempt trust (other than a public institution) will qualify only if the trust is a registered charity or one of the other eligible tax-exempt entities. In addition, if a trust is a public institution, it will qualify for the CEWS only if it is a prescribed organization (see above). This change applies in respect of the third qualifying period (10 May to 6 June 2020) and any subsequent qualifying periods.

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EYG no. 003333-20Gbl

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