

A background image showing a close-up of a person's hand being washed under a running faucet in a kitchen sink. The water is clear and flowing. The background is slightly blurred, showing a kitchen setting with a window and some items on the counter.

TAX UPDATE

Response to COVID-19

April 12, 2020

On Saturday, April 11, 2020, the Federal Government released the much-anticipated tax legislation with respect to the Canada Emergency Wage Subsidy (CEWS). The Government's intent with this program is to help employers keep and return workers to their payroll through the challenges posed by the COVID-19 pandemic.

To assist in determining your eligibility for the CEWS it is imperative that your monthly financial statements up to and including March 31, 2020 have been completed.

The following summarizes the program requirements:

Eligible Employers

- Eligible employers will include individuals, trusts, taxable corporations, non-profit organizations and registered charities.
- Public institutions are not included; however, the following entities are specifically included:
 - an agricultural organization, a board of trade or a chamber or commerce;
 - non-profit corporations for scientific research and experimental development; and
 - labour organizations.
- Partnerships are included, provided all of the members of which are eligible employers.

Calculating Revenue

- Employers must show a 15 percent decline in revenue in March versus a 30 percent decline in April and May 2020, when compared to the same month in 2019, to access the subsidy.
- Employers may compare their March, April and May revenue to an average of the revenue earned in January and February 2020 as an alternative approach.
- Employers must select the general year-over-year approach or this alternative approach when first applying for the CEWS and will then be required to use the same approach for the duration of the program.
- Employers may calculate their revenue in accordance with their normal accounting practices (accrual method) or elect to use the cash method.
- The calculation for registered charities and non-profit organizations will include most forms of revenue but will exclude revenue from non-arm's length persons. These organizations have the option to exclude revenue from government sources in their calculation, provided they maintain the same approach for the duration of the program.
- Affiliated groups may be able to elect to compute revenue on a consolidated basis.

TAX ALERT

- Certain eligible entities receiving substantially all (90% or more) of their revenue from non-arm's length persons may be eligible to elect to calculate their decline in revenue based on the non-arm's length persons' decline in revenue. These rules are complex and should be reviewed with your tax advisor.
- In applying for the subsidy, employers will be required to attest to the decline in revenue.

MNP Insights: Given the complexity of the revenue calculations and the requirement for employers to attest that their application is complete and accurate, it is recommended you consult your MNP Advisor for assistance.

Eligible Employees

- An eligible employee is an individual who is employed in Canada and has not been without remuneration for 14 or more consecutive days in the qualifying period.
- This rule replaces the previous announcement that an employer may not claim the CEWS for remuneration paid to an employee in a week that falls within a four-week period for which the employee is eligible for the Canadian Emergency Response Benefit.

Qualifying Periods

- In order to provide certainty for employers, once an employer is found eligible for a specific period, the employer will automatically qualify for the next period.

	Qualifying Period	Required Revenue Reduction	Reference Period for Eligibility
Period 1	March 15 – April 11	15%	March 2020 over: <ul style="list-style-type: none">• March 2019 or• Average of January and February 2020
Period 2	April 12 – May 9	30%	Eligible for Period 1 OR April 2020 over: <ul style="list-style-type: none">• April 2019 or• Average of January and February 2020
Period 3	May 10 – June 6	30%	Eligible for Period 2 OR May 2020 over: <ul style="list-style-type: none">• May 2019 or• Average of January and February 2020

Amount of Subsidy

- The amount of the CEWS that can be claimed for each employee (new or existing) is calculated as the greater of:
 - 75 percent of the amount of the eligible remuneration paid (includes salary, wages and other remuneration such as taxable benefits, not including severance pay or items such as stock option benefits or personal use of corporate vehicles), up to a maximum benefit of \$847 per week or if employee is not dealing at arm's length with the employer, nil, whichever is less ; and
 - the amount of eligible remuneration paid, up to a maximum benefit of \$847 per week or 75 percent of the employees' baseline remuneration (previously referred to as the pre-crisis weekly remuneration), whichever is less.



- The baseline remuneration for a given employee will be determined based on the average weekly eligible remuneration paid between January 1 and March 15, 2020 inclusively, excluding any seven-day periods in which the employee was not remunerated.
- The subsidy for employees not dealing at arm's length with their employer will only be available to those employed prior to March 15, 2020.

MNP Insights: Many owner-managed employees often remunerate themselves when cash is available, usually in the form of a dividend at the end of the year. These owner-managed employees would not be eligible for the CEWS based on the current legislation. The Government continues to explore eligibility requirements. MNP will continue to work with government to communicate the needs of businesses, including owner-managed family businesses.

Refund for Certain Payroll Contributions

- The program has been expanded by introducing a new 100 percent refund for certain employer-paid contributions to Employment Insurance (EI), the Canada Pension Plan, the Quebec Pension Plan, and the Quebec Parental Insurance Plan.
- This refund is available on employer-paid contributions for eligible employees for each week throughout which those employees are on leave with pay, and for those employees that the employer is eligible to claim the CEWS.
- An employee is considered on leave if that employee is paid by the employer but does not perform any work for the employer. The refund has no weekly maximum benefit per employee and no overall limit to the refund amount that an eligible employer may claim.
- Employers will be required to collect and remit employer and employee contributions to each program as usual; eligible employers will apply for a refund at the same time as they apply for the CEWS.

MNP Insights: There are still some outstanding concerns, with respect to the short-term cash flow issues given the timing of payroll and payroll remittances versus the timing of the subsidy and refund of certain payroll contributions, that may not be covered by the business support programs. This needs to be considered when determining the suitability of this program for your employees and your business.

How to Apply

- Eligible employers can apply for the CEWS through the Canada Revenue Agency's My Business Account portal as well as a web-based application. Please note that the Government may communicate, or otherwise make available to the public, the name of any employer that makes an application for the CEWS.
- Employers need to keep records demonstrating their decline in revenue and remuneration paid to employees.
- More details about the application process will be available shortly.



Compliance

- Employers not meeting eligibility requirements will be required to repay amounts received under the CEWS. Fraudulent claims may result in penalties, including fines or even imprisonment.
- Employers engaging in artificial transactions to reduce revenues for the purpose of claiming the CEWS will be subject to a penalty equal to 25 percent of the subsidy claimed, in addition to the requirement to repay the full amount of subsidy received.

Intersect with Other Programs

- For employers eligible for both the CEWS and the 10 percent wage subsidy for a period, any benefit from the 10 percent wage subsidy for remuneration paid in a specific period would generally reduce the amount available to be claimed under the CEWS in that same period.
- For employers and employees participating in a Work-Sharing program, EI benefits received by employees through the Work-Sharing program will reduce the benefit the employer is entitled to receive under the CEWS.

What Does This Mean?

MNP appreciates that government has responded to the current crisis facing businesses. The new legislation has provided clarity on several issues with respect to the CEWS; we anticipate further information will be provided in the coming days. In the meantime, we encourage you to contact your MNP Advisor to discuss the different government programs and evaluate which will be most beneficial to your employees and your business. We continue to work with government to get further clarity on the various programs in order to provide you with insights as to how to move forward in these evolving circumstances.

This situation is dynamic and government programs can change. To stay up to date and receive insights from our team, visit our [COVID-19 Business Advice Centre at MNP.ca/COVID-19](https://www.mnp.ca/COVID-19). We're dedicated to supporting Canada's business leaders by providing timely information and practical solutions for navigating through the uncertainty of COVID-19.

