

NEW EXTENSION OF THE CREDIT ON EMPLOYERS CONTRIBUTION TO THE HEALTH SERVICES FUND IN RESPECT OF EMPLOYEES ON PAID LEAVE AND OTHER MEASURES

This information bulletin makes public the changes to the credit on employers contribution to the Health Services Fund in respect of employees on paid leave and announces its extension until November 21, 2020.

It also indicates the Ministère des Finances' position with respect to the relief measures pertaining to registered pension plans and deferred salary leave plans announced by Canada's Minister of Finance.

For information concerning the matters dealt with in this information bulletin, contact the Secteur du droit fiscal, de l'optimisation des revenus et des politiques locales et autochtones at 418 691-2236.

The English and French versions of this bulletin are available on the Ministère des Finances website at www.finances.gouv.qc.ca.

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1. MODIFICATION AND EXTENSION OF THE CREDIT ON EMPLOYERS CONTRIBUTION TO THE HEALTH SERVICES FUND IN RESPECT OF EMPLOYEES ON PAID LEAVE

Under *Canada's COVID-19 Economic Response Plan*, in March 2020 the Government of Canada announced the establishment of the Canada Emergency Wage Subsidy.¹

Briefly, according to the initial parameters, the Canada Emergency Wage Subsidy comprises a subsidy corresponding to 75% of the wages paid by a qualifying entity to its eligible employees, up to \$847 per employee per week, and the reimbursement of employers contributions to employment insurance, the Canada Pension Plan, the Québec Pension Plan and the Québec Parental Insurance Plan that the qualifying entity must pay on the wages paid to its eligible employees for the weeks during which they are on paid leave.

To be a qualifying entity, an employer must, by way of an example, be an individual, a taxable corporation, a non-profit organization, a registered charity, or a partnership that meets certain conditions with respect to its members. In particular, the employer must have experienced a decrease in income of at least 15% in March 2020 and at least 30% in April, May, and June 2020.

The wage subsidy was initially granted for three qualifying periods, the first one beginning on March 15, 2020 and the last one ending on June 6, 2020. On May 15, 2020, the Minister of Finance of Canada announced its extension until August 29, 2020, for three additional qualifying periods.²

On April 30, 2020, the Ministère des Finances du Québec announced the establishment of the credit on employers contribution to the Health Services Fund in respect of employees on paid leave³, which complements the Canada Emergency Wage Subsidy.

Accordingly, an employer with an establishment in Québec that can, for a qualifying period, benefit from the Canada Emergency Wage Subsidy can also, in respect of this qualifying period, benefit from the credit on employers contribution to the Health Services Fund. The credit on employers contribution to the Health Services Fund that such an employer can request corresponds to the amount of the contribution to the Health Services Fund that it pays in respect of the wages that it pays to a specified employee for a week included in the qualifying period when the employee is on paid leave.

¹ Department of Finance Canada, *Canada Emergency Wage Subsidy*, available at <https://www.canada.ca/en/revenue-agency/services/subsidy/emergency-wage-subsidy.html>. See also the *Second Act respecting certain measures in response to COVID-19* (S.C. 2020, c. 6) assented to on April 11, 2020.

² Department of Finance Canada, *Government extends the Canada Emergency Wage Subsidy*, May 15, 2020, available at <https://www.canada.ca/en/department-finance/news/2020/05/government-extends-the-canada-emergency-wage-subsidy.html>. See also: Department of Finance Canada, *Extending eligibility for the Canada Emergency Wage Subsidy*, May 15, 2020, available at <https://www.canada.ca/en/department-finance/news/2020/05/extending-eligibility-for-the-canada-emergency-wage-subsidy.html>.

³ Ministère des Finances du Québec, *Information Bulletin 2020-7*, April 30, 2020.

The credit on employers contribution to the Health Services Fund is granted for the same qualifying periods as the Canada Emergency Wage Subsidy, the first period beginning on March 15, 2020 and the last period ending on August 29, 2020.⁴

On July 17, 2020, the Minister of Finance of Canada announced changes to the Canada Emergency Wage Subsidy.⁵ For example, the eligibility criteria for the wage subsidy were modified to enable employers who face a decrease of income of less than 30% to benefit from it. The definition of the expression “eligible employee” was also modified such that it no longer excludes individuals without remuneration by the employer for at least 14 consecutive days in the qualifying period. Furthermore, three new qualifying periods were added.

So that an employer can benefit from the credit on employers contribution to the Health Services Fund in respect of employees on paid leave for the same qualifying periods as those in respect of which the employer can obtain the Canada Emergency Wage Subsidy and the credit on employers contribution to the Health Services Fund continues to complement the reimbursement of employers contributions granted under the Canada Emergency Wage Subsidy, the definition of “qualifying entity” and “specified employee” will be modified for the application of the credit on employers contribution to the Health Services Fund. The credit on employers contribution to the Health Services Fund will also be extended until November 21, 2020.

□ **Modification of the definition of the expression “qualifying entity”**

An employer can benefit from the credit on employers contribution to the Health Services Fund for the year 2020 if the employer is a specified employer for the year, that is, an employer that, during the year, has an establishment in Québec and is, for a qualifying period, a qualifying entity.

A qualifying entity, for a qualifying period, for the application of the credit on employers contribution to the Health Services Fund, designates a qualifying entity for this period for the purposes of the Canada Emergency Wage Subsidy.

Under the changes to the Canada Emergency Wage Subsidy, the condition stipulating that the entity must have faced a decrease of income no longer has to be satisfied for the entity to qualify as a qualifying entity for a qualifying period that begins after July 4, 2020. This requirement is now reflected in the determination of the rate of the Canada Emergency Wage Subsidy applicable to a qualifying entity.

To ensure that the credit on employers contribution to the Health Services Fund is granted, for a qualifying period, solely to an employer that satisfies, in respect of the qualifying period, all the conditions to benefit from the Canada Emergency Wage Subsidy, especially the condition respecting the decrease of income, the definition of the expression “qualifying entity” will be modified.

⁴ Ministère des Finances du Québec, *Information Bulletin 2020-8*, May 29, 2020, pages 3-4.

⁵ Department of Finance Canada, *Supporting Canadian Workers and Businesses with a redesigned Canada Emergency Wage Subsidy*, July 17, 2020, available at <https://www.canada.ca/en/department-finance/news/2020/07/supporting-canadian-workers-and-businesses-with-a-redesigned-canada-emergency-wage-subsidy.html>. See also the *Act respecting further COVID-19 measures* (S.C. 2020, c. 11) assented to on July 27, 2020.

Accordingly, a qualifying entity, for a qualifying period that begins after July 4, 2020, for the application of the credit on employers contribution to the Health Services Fund, will designate an entity that satisfies the following conditions:

- it is a qualifying entity for the qualifying period for the purposes of the Canada Emergency Wage Subsidy;
- it satisfies, for the taxation year in which the qualifying period ends, all the conditions that allow it to obtain an amount attributable to this qualifying period under the Canada Emergency Wage Subsidy.

□ Modification of the definition of the expression “specified employee”

A specified employee of a specified employer, for a qualifying period, for the application of the credit on employers contribution to the Health Services Fund, designates an individual employed by the specified employer during this qualifying period, except for an individual who receives no remuneration from the employer for at least 14 consecutive days during the qualifying period.

Like the modification of the definition of the expression “eligible employee,” for the purposes of the Canada Emergency Wage Subsidy, the definition of the expression “specified employee,” for the application of the credit on employers contribution to the Health Services Fund, will be modified, for a qualifying period that begins after July 4, 2020, so that a specified employee of a specified employer, for a qualifying period, for the application of the credit on employers contribution to the Health Services Fund, designates an individual employed by the specified employer during this qualifying period.

□ Addition of new qualifying periods

For the application of the credit on employers contribution to the Health Services Fund, a qualifying period designates one of the following periods:

- the period beginning on March 15, 2020 and ending on April 11, 2020;
- the period beginning on April 12, 2020 and ending on May 9, 2020;
- the period beginning on May 10, 2020 and ending on June 6, 2020;
- the period beginning on June 7, 2020 and ending on July 4, 2020;
- the period beginning on July 5, 2020 and ending on August 1, 2020;
- the period beginning on August 2, 2020 and ending on August 29, 2020.

As is the case for the Canada Emergency Wage Subsidy, in respect of which an extension was announced on July 17, 2020, three new periods will be added to the qualifying periods for the credit on employers contribution to the Health Services Fund:

- the period beginning on August 30, 2020 and ending on September 26, 2020;
- the period beginning on September 27, 2020 and ending on October 24, 2020;
- the period beginning on October 25, 2020 and ending on November 21, 2020.

2. HARMONIZATION WITH THE RELIEF MEASURES ANNOUNCED ON JULY 2, 2020 CONCERNING REGISTERED PENSION PLANS AND DEFERRED SALARY LEAVE PLANS

Under *Canada's COVID-19 Economic Response Plan*, the federal government announced, on July 2, 2020, relief measures for registered pension plan and deferred salary leave plans.⁶

2.1 Registered pension plans

To respond to potential cash flow problems that registered pension plans are facing because of the COVID-19 pandemic, the Minister of Finance of Canada has proposed an amendment to the *Income Tax Regulations* (ITR) to temporarily suspend the 90-day limit applicable to the maturity of a borrowing and the prohibition on having a borrowing be part of a series of loans and repayments.

The Minister of Finance of Canada is also proposing to amend the ITR to allow the payment of a retroactive contribution to the money purchase account of an employee for 2020, whether or not the employee had reduced employment service or reduced wages, subject to satisfying certain conditions.

Lastly, to recognize the reduced work periods and wages during the COVID-19 pandemic, two modifications are being proposed to the definition of “eligible period of reduced pay” stipulated in the ITR for 2020.

While they do not engender any legislative or regulatory amendment, the relaxations of the rules governing registered pension plans outlined above will be adopted for the application of the Québec taxation system and will be applicable on the same dates as those retained for the application of the federal taxation system.

2.2 Deferred salary leave plans

The Minister of Finance of Canada is proposing to add temporary stop-the-clock rules to the conditions applicable to deferred salary leave plans. The temporary changes will mean that it will not be mandatory to end a deferred salary leave plan if an employee suspends a leave of absence to return to work or if the employee elects to postpone his paid leave of absence.

Québec tax regulations are essentially harmonized with federal tax regulations in respect of deferred salary leave plans. Accordingly, the *Regulation respecting the Taxation Act* will be amended to incorporate therein the temporary amendments pertaining to such plans proposed on July 2, 2020. However, the amendments to the Québec tax regulations will only be adopted after the adoption of any federal regulation in the wake of the measures adopted, which will consider the technical amendments made prior to adoption. The changes will be applicable on the same dates as those retained for the application of the federal measures with which they are being harmonized.

⁶ Department of Finance Canada, *Government Introduces Draft Regulations Providing Relief for Registered Pension Plans*, July 2, 2020, available at <https://www.canada.ca/en/department-finance/news/2020/07/government-introduces-draft-regulations-providing-relief-for-registered-pension-plans.html>.