

ESTABLISHMENT OF A CREDIT ON EMPLOYERS CONTRIBUTION TO THE HEALTH SERVICES FUND IN RESPECT OF EMPLOYEES ON PAID LEAVE

Under *Canada's COVID-19 Economic Response Plan*, on March 27, 2020, the Government of Canada announced the establishment of the Canada Emergency Wage Subsidy.¹

Briefly, the Canada Emergency Wage Subsidy will entitle employers that are qualifying entities to a subsidy corresponding to 75% of the wages paid to their employees, to a maximum of \$847 per employee per week, for a period of up to 12 weeks, retroactive to March 15, 2020.

On April 8, 2020, the federal government proposed broadening the extension of the Canada Emergency Wage Subsidy by implementing a reimbursement of employer contributions to employment insurance, the Canada Pension Plan, the Québec Pension Plan, and the Québec Parental Insurance Plan that a qualifying entity must pay on the wages paid to its employees in respect of whom it can request the Canada Emergency Wage Subsidy and for the weeks during which the employees are on paid leave.

For the purposes of the Canada Emergency Wage Subsidy, an employer who is an individual, a taxable corporation, a non-profit organization, a registered charity or a partnership whose each member is one of those entities can, in particular, be a qualifying entity.

Moreover, to be a qualifying entity, an employer must, among other things, be facing a drop in income of at least 15% in March 2020 and at least 30% in April and May 2020.

However, a public institution cannot benefit from the Canada Emergency Wage Subsidy.²

To complement the Canada Emergency Wage Subsidy, a credit on employers contribution to the Health Services Fund will be established for employers that can benefit from the Canada Emergency Wage Subsidy and that maintain an establishment in Québec.

The credit on employers contribution to the Health Services Fund will be granted for a period of up to 12 weeks, retroactive to March 15, 2020. As is the case for the reimbursement of certain employer contributions granted by the federal government, it will be equal to the total amount of the contribution to the Health Services Fund paid by a specified employer with respect to the wages paid to certain employees on paid leave.

¹ Department of Finance Canada, *The Canada Emergency Wage Subsidy*, available at: <https://www.canada.ca/en/department-finance/economic-response-plan/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 For the purposes of the Canada Emergency Wage Subsidy, a public institution means a school, a school board, a hospital, a health authority, a public university, a college, or an organization described in any of paragraphs 149(1)a) to d.6) in the *Income Tax Act*, that is, a crown corporation, a municipality or a local administration (*Income Tax Act*, subsection 125.7(1)).

❑ Specified employer

A specified employer, for the year 2020, for the purposes of the credit on employers contribution to the Health Services Fund, will mean an employer that, during the year, maintains an establishment in Québec and is, for a qualifying period, a qualifying entity.

■ Qualifying entity

A qualifying entity, for a qualifying period, will mean an entity that is a qualifying entity for such a qualifying period for the purposes of the Canada Emergency Wage Subsidy.³

■ Qualifying period

For the purposes of the credit on employers contribution to the Health Services Fund, a qualifying period will mean 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.

❑ Calculation of the credit on employers contribution

A specified employer, for the year 2020, that, during this year, has paid, allocated, granted or awarded a specified wage to an employee will be deemed to have paid, in respect of the year, an amount in payment of its contribution to the Health Services Fund equal to all the amounts each of which represents a specified expense of the employer in respect of an employee for the year.

❑ Specified expense

A specified expense of a specified employer in respect of an employee, for the year 2020, will be equal to the amount paid by the employer as a contribution to the Health Services Fund⁴ that is attributable to the specified wage that it paid, allocated, granted or awarded to the employee for a week falling within a qualifying period.

❑ Specified wage

The specified wage of an employee for a week falling within a qualifying period will mean the wage paid, allocated, granted or awarded by the specified employer to the employee for such a week during which the employee is on paid leave⁵ and that falls within a qualifying period during which the employee is a specified employee and the employer is a qualifying entity.

³ *Income Tax Act*, subsection 125.7(1), “qualifying entity.”

⁴ *Act respecting the Régie de l'assurance maladie du Québec* (CQLR, chapter R-5), section 34.

⁵ In general, an employee will be on paid leave for one week if the employer pays remuneration for the week, but the employee does not perform any work for the employer during the week.

❑ Specified employee

A specified employee of a specified employer, for a qualifying period, will mean an individual employed by the specified employer, during the qualifying period, other than an individual who receives no remuneration from the employer for at least 14 consecutive days during the qualifying period.

❑ Application for the credit on employers contribution to the Health Services Fund

The Minister of Revenue will pay to a specified employer the credit on employers contribution to the Health Services Fund, for the year 2020, after the submission by the employer to him of an application to this effect.

The application for the credit on employers contribution to the Health Services Fund must be made in writing and be accompanied by documents and information that enable the Minister of Revenue to establish the amount of the credit on employers contribution to the Health Services Fund to which the employer is entitled. The application must be submitted to the Minister of Revenue when the employer submits the *Summary of Source Deductions and Employer Contributions* for 2020.

❑ Reduction of periodic payments of employer contribution to the Health Services Fund

A specified employer can reduce the amount that it has to remit to the Minister of Revenue following the day of publication of this Information Bulletin, as a periodic payment of employer contribution to the Health Services Fund⁶, of the portion of the credit on employers contribution to the Health Services Fund attributable to a specified wage that it has paid, allocated, granted or awarded prior to the time of the periodic payment and that has not reduced another periodic payment.

In such a case, the amount that will be paid to the specified employer, following the application for the credit on employers contribution to the Health Services Fund that it submits to the Minister of Revenue, will be equal to the surplus, where applicable, of the amount of the credit on employers contribution to the Health Services Fund of the employer, for the year 2020, over the total amounts that reduce its periodic payments of contribution to the Health Services Fund for the year 2020.

For greater clarity, in the case where the total of the amounts that reduced the periodic payments of an employer for the year 2020 exceeds the total of the amounts that could reduce such periodic payments and there remains a balance payable by the employer for the year 2020 as its contribution to the Health Services Fund, the usual rules will apply for the payment of such balance and interest and penalties may apply, according to the usual rules, in respect of insufficient payments.

⁶ The portion of the contribution to the Health Services Fund that must be remitted periodically is determined pursuant to paragraph a of the first subsection of section 34.0.0.0.1 of the *Act respecting the Régie de l'assurance maladie du Québec*.

❑ Other conditions

The amount of any government assistance, non-government assistance or any profit or benefit attributable to a specified expense of a specified employer must be subtracted from such expense, according to the usual rules. However, an amount received or receivable as a refundable tax credit for SMEs to foster the retention of experienced workers⁷ or a refundable tax credit for SMEs for persons with a severely limited capacity for employment⁸ will not be a government assistance for the purposes of the credit on employers contribution to the Health Services Fund.

Moreover, when an employer could benefit, for the year 2020, in respect of a wage paid, allocated, granted or awarded to an employee, from the credit on employers contribution to the Health Services Fund and the reduction in the contribution to the Health Services Fund offered to innovative SMEs,⁹ the qualified wage relating to this employee for the purposes of the reduction in the contribution to the Health Services Fund offered to innovative SMEs must be reduced by an amount equal to the specified wage paid, allocated, granted or awarded to such an employee.

To obtain information on the matter 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 information bulletin are available on the Ministère des Finances website at www.finances.gouv.qc.ca.

⁷ Ministère des Finances du Québec, *Budget 2019-2020 – Additional Information*, March 21, 2019, pages A.7-A.13.

⁸ Ministère des Finances du Québec, *Budget 2020-2021 – Additional Information*, March 10, 2020, pages A.37-A.42.

⁹ *Act respecting the Régie de l'assurance maladie du Québec*, section 34.1.12.