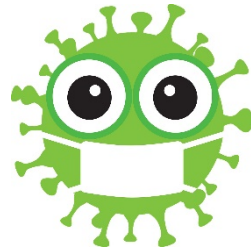


COVID-19 Pandemic

Canadian Tax Issues

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Overview

- Government Support Measures, include:
 - Canada Emergency Response Benefit (“CERB”)
 - Canada Emergency Wage Subsidy (“CEWS”)
 - Canadian Emergency Business Account (“CEBA”)
 - Canada Emergency Commercial Rent Assistance (“CECRA”) for Small Business
 - Canada Emergency Rent Subsidy (“CERS”)
 - Canadian Emergency Student Benefit (“CESB”)
 - Extensions for tax return filings
- CRA Audit Activity
 - CERB
 - CEWS
- International Tax Issues

Canada Emergency Response Benefit

- CERB provides financial support to employed and self-employed individuals affected by COVID. Benefit is \$2,000 for a 4-week period
- CERB ends when individual receives 28 weeks of benefit or on Oct 3, 2020, whichever comes first
- CRA is continuing to accept and process retroactive CERB applications until Dec 2, 2020

CERB Audit Activity

- CERB Claim Enforcement started in August/September
- CRA audits will involve comparing employer payroll records with CERB application information to ensure no double dipping
- Ineligible amounts will be required to be repaid with interest, penalties, and the potential for criminal liability in the case of fraudulent claims.

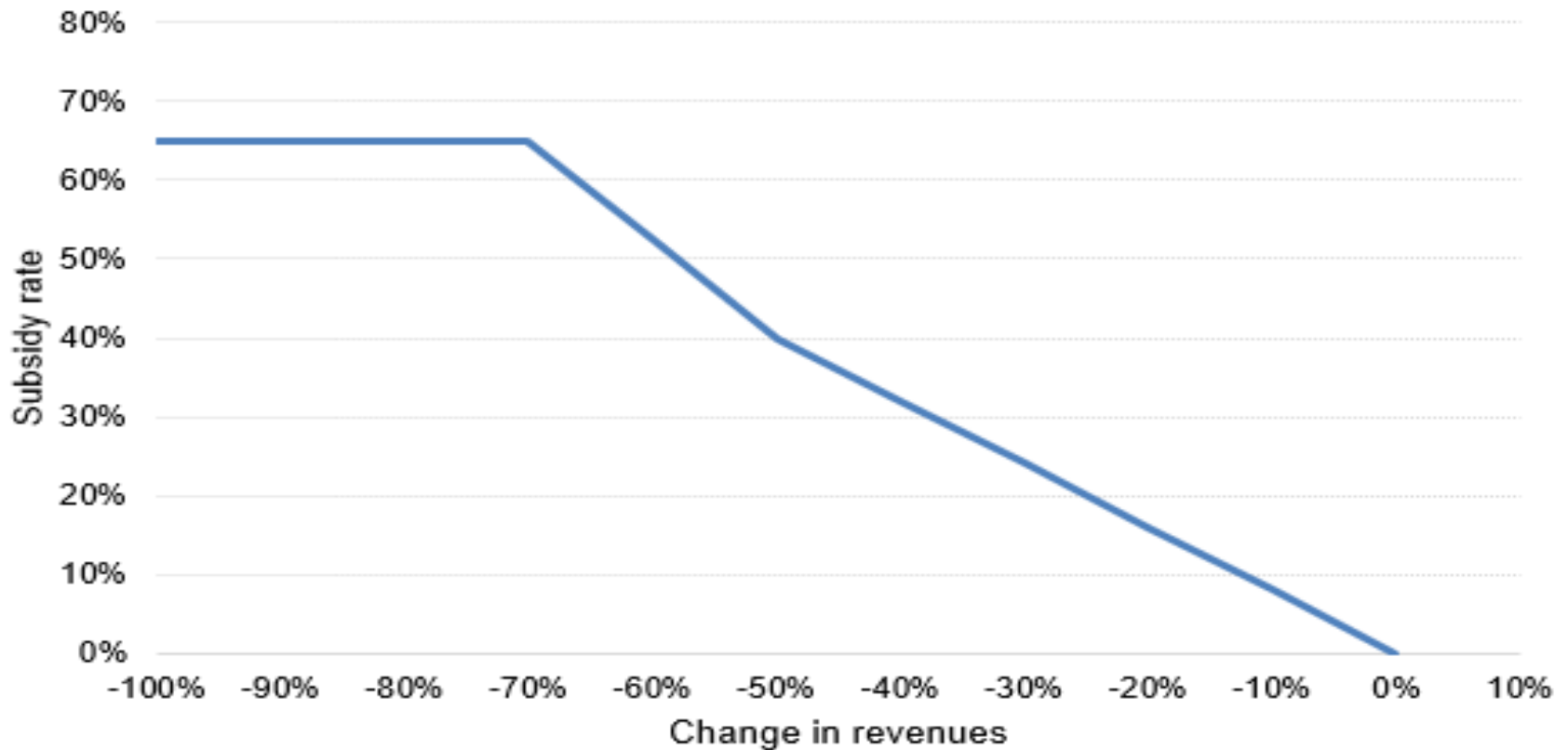
New 2020 T4 Reporting

- For 2020 tax year, CRA will be introducing additional reporting for the T4 slip, Statement of Remuneration Paid
- New codes will be implemented to report employment income between March and September 2020 in order to assist CRA with validating CEWS, CERB, and CESB
 - E.g. CRA will likely cross-reference these amounts with CERB applications to ensure no double dipping

Canada Emergency Wage Subsidy

- CEWS provides subsidy to *employers* who had drop in revenues due to COVID. Intention is to encourage employers to keep staff on payroll and to subsidize the employers
- Various changes to the subsidy program since it started on Mar 15, 2020:
 - Periods up to Jul 4, 2020: 75% subsidy of wages if 30%+ revenue drop
 - Periods of Jul 5 – Dec 19, 2020: base CEWS is available if *any* revenue drop + top-up CEWS if revenue drop exceeds 50%
 - Newest maximum weekly benefit per employee: \$734
- CRA provides online calculator/Excel to assist with complicated formulas
- Oct 14 announcement by Finance indicates their intention is to extend the wage subsidy until Jun 2021.

New CEWS Rate Structure



Canada Emergency Wage Subsidy

- CEWS calculation for employee with gross salary of \$1,000 per week for Period 8 (period ending Oct 24, 2020):

Gross revenue drop vs. 2019 comparable	Base subsidy rate	Top-up subsidy rate	Overall CEWS rate	Actual subsidy amount per week
0%	0%	0%	0%	\$0
10%	8%	0%	8%	\$80
40%	32%	0%	32%	\$320
50%	40%	0%	40%	\$400
60%	40%	12.5%	52.5%	\$525
80%	40%	25%	65% (max)	\$650

Canada Emergency Wage Subsidy

As of November 1, 2020:

- Total Approved Applications = 1,481,550

All approved applications by value	
Under \$100K	1,409,780
\$100K to \$1M	68,060
\$1M to \$5M	3,350
Over \$5M	360

- Dollar value of subsidies paid = \$46.8 Billion

[Source: Canada Revenue Agency](#)

CEWS Audit Activity

- CEWS Claim Enforcement started in August/September
- CRA Audit Letter– 9 pages. Requested information is extensive, including:
 - Minute book
 - Employer’s accounting records and explanation for revenue calculations
 - Detailed payroll records
 - Employment contracts for employees
- CRA has indicated they expect a response from taxpayers within 10 days (although extensions can be requested)

Canada Emergency Business Account

- CEBA provides zero-interest loans up to \$40,000 to businesses that have experienced diminished revenues due to COVID
- Repaying the balance of the loan on or before Dec 31, 2022 will result in loan forgiveness of 25% (up to \$10,000).
- Deadline to apply for CEBA is Dec 31, 2020
- Various changes to the CEBA program, including:
 - Increasing payroll eligibility range
 - Sole proprietors receiving business income directly and family-owned corporations remunerating in the form of dividends rather than payroll are now eligible
 - Oct 9 announcement indicates CEBA loan will increase to \$60k (with \$20k being forgivable if paid by end of 2022)

Canada Emergency Rent Subsidy

- New CERS replaces the federal government's Canada Emergency Commercial Rent Assistance (CECRA) program announced this month
- CERS will subsidize up to 65% of eligible expenses until June 2021 with additional Lockdown Support subsidy of 25%. Total rent support of up to 90%.
- Rent subsidy amount will be based on revenue drop (similar to CEWS)
- Administered through CRA now

CERS – Base Subsidy Rate

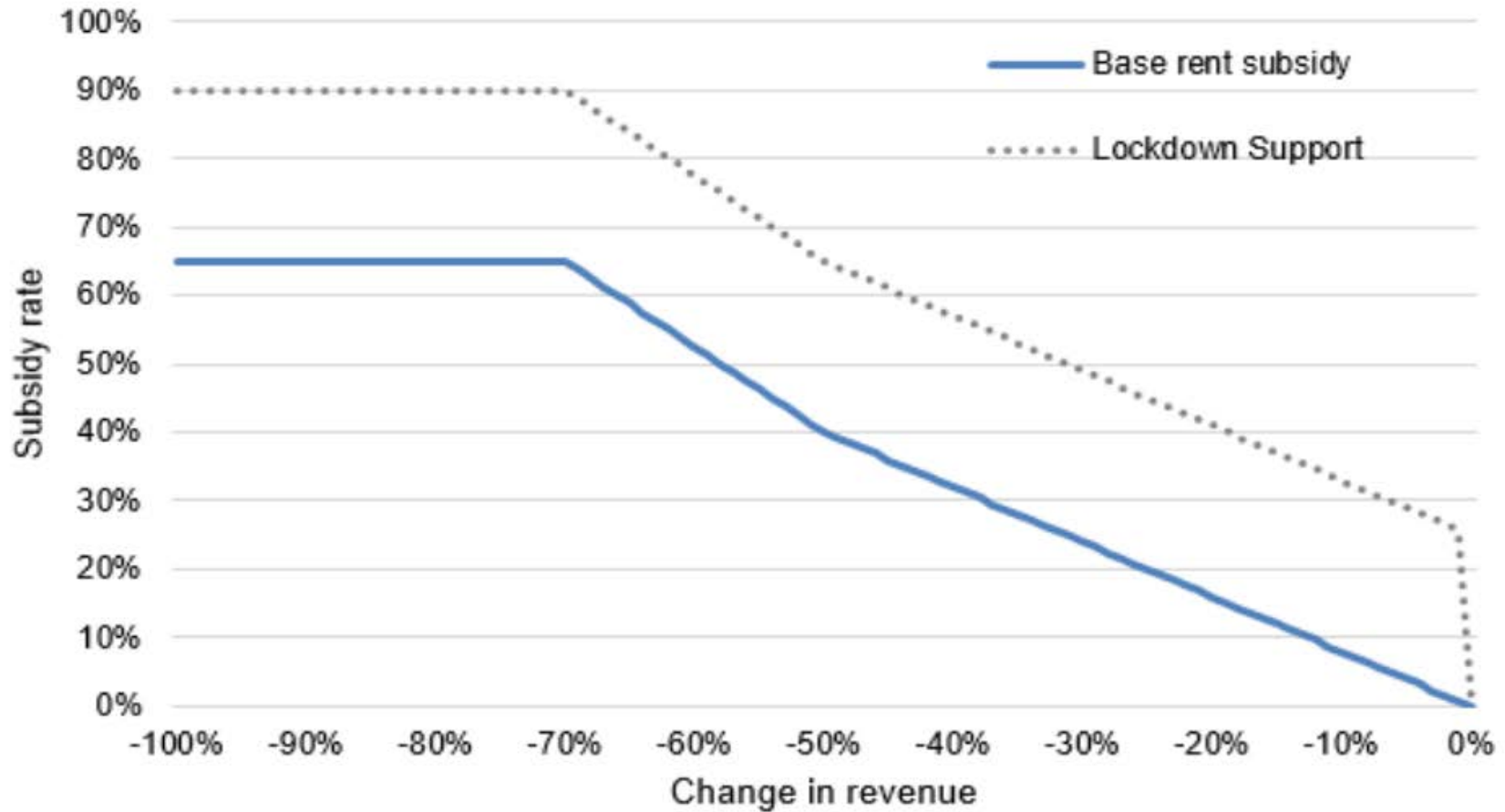
Calculate the BASE rent subsidy rate

<u>Your revenue drop</u>	<u>How to calculate base rate</u>
Revenue drop of 70% or more	The maximum subsidy rate of 65%
Revenue drop of 50 to 70%	$(\text{Your revenue drop} - 50\%) \times 1.25 + 40\%$
Revenue drop of less than 50%	$0.8 \times \text{your revenue drop}$

CERS – Lockdown Support

- Rent top-up of up to 25% for a location that has been subject to a “public health order” at any time during a qualifying period
- Subsidy rate is prorated for number of days business was locked down in CERS period
- The following conditions must apply to qualify:
 - The organization qualifies for the base CERS; and
 - The public health order requires that the organization
 - Completely shuts down the location; or
 - Cease some or all of the activities at its location and it is reasonable to conclude that the ceased activities, in the appropriate pre-pandemic prior reference period, were responsible for at least approximately 25% of the revenues of the entity at that location

New CERS Rate Structure



CERS – Eligibility

Eligibility requirements:

- Most businesses qualify, including individuals, taxable corporations, taxable trusts, NPO, partnerships
- Experienced any drop in revenue due to COVID – i.e. no minimum revenue drop requirement
- Have a qualifying property with specific related expenses

CERS – Qualifying Property

Qualifying Properties (business locations)

- Include “real or immovable property” (land or building) in Canada that your business:
 - Owns or rents, and
 - Uses in the course of your ordinary business

Non-Qualifying Properties

- Your home, cottage, or other residence used by you, your family members or other non-arm’s length persons
- Any properties you own that are primarily used to earn rental income from arm’s-length parties

CERS – Eligible Expenses Requirements

- Eligible expenses are:
 - If property is being rented = rent payments
 - If property is owned = property-related expenses such as property taxes, insurance, and interest on mortgage
- In order to be eligible for a claim period, the expense:
 - Must be paid or payable to an arm's length party
 - Must be in respect of the claim period
 - Must be paid or payable under a written agreement in place before October 9, 2020

CERS – Eligible Expense Limit

- For each claim period, can claim eligible expenses up to a maximum of:
 - 75,000 per business location (base and top-up)
 - \$300,000 in total for all locations (incl. any amount claimed by affiliated businesses)
 - Applies to the base subsidy only
 - There is no maximum for the top-up subsidy

CERS – Example

- Assume:
 - Total monthly eligible rent expense = \$10,000
 - Revenue drop = 20%
- Calculation:
 - Rent subsidy rate = 16% (20% revenue drop x 0.8 rate)
 - **Base Subsidy = \$1,600** (\$10,000 eligible expenses x 16% base rate)
- If location qualifies for lockdown support, there will be an additional lockdown support subsidy of \$2,500 (\$10,000 eligible expenses x 25% subsidy top-up rate)

CERS – Important Dates

Claim Period Open Now:

- Claim Period 1: Sep 27 - Oct 24

Upcoming Claim Periods:

- Claim Period 2: Oct 25 - Nov 21
 - Apply beginning Nov 30th
- Claim Period 3: Nov 22 - Dec 19
 - Apply beginning Dec 23rd
- CERS application must be filed no later than **180 days** after the end of the particular claim period

Extension to incur flow-through share qualifying expenditures

- *General Rule* - Extension to incur qualifying expenditures by 12 months
 - FTS agreements entered into on or after 1 Mar 2018 and before 2021.
 - Corporation now has 36 months as opposed to 24 months to incur/renounce expenditures.
- *Look-back Rule* - Extension to incur qualifying expenditures by 12 months
 - FTS agreements that were entered into in 2019 or 2020.
 - Corporation will have until Dec 31, 2021 instead of Dec 31, 2020 for a flow-through share agreement entered in 2019 and renounced by 31 December 2019.
- Relief in respect of Part XII.6 tax for FTS agreements entered into in 2019 & 2020
 - Part XII.6 tax will be applied as if the qualifying expenditures were incurred up to one year earlier than the date they are actually incurred.
 - Where corporation fails to meet the extended deadline, additional 10% penalty tax under Part XII.6 would apply and the tax payable of investors would be adjusted accordingly.

COVID - International Issues Relief Provided by CRA

- Due to COVID situation, CRA has addressed some international tax issues that will impact various taxpayers
- CRA's relieving policies will apply from Mar 16, 2020 through Sep 30, 2020

Areas of Relief Provided by CRA

- Income Tax Residency
- Carrying on a business in Canada / Permanent Establishment
- Cross-border employment income
- Waiver Requests and non-resident certification program
- Disposition of Taxable Canadian Property by non-residents of Canada

Income Tax Residency

Individuals

- Individual is deemed to be CDN resident if present in Canada > 183 days
- Issue: Individuals may be stuck in Canada due to travel restrictions
- Relief: CRA will not consider the days in Canada solely as a result of travel restrictions

Corporations

- Corporation's residency is based on location of central management and control (e.g. BoD meetings location)
- Issue: Foreign directors may be stuck in Canada and have to attend BoD from Canada
- Relief: CRA will not consider the corporation to be resident of Canada solely for director being in Canada due to travel restrictions

Carrying on a Business in Canada

- Non-resident entities may be taxable in Canada if carrying on a business in Canada and there is a permanent establishment created in Canada
- Issue: Foreign employees may be stuck in Canada due to travel restrictions and may create permanent establishment
- Relief: CRA will not consider a non-resident entity to have a permanent establishment in Canada solely because its employees perform their employment duties in Canada as a result of the travel restrictions. CRA will also exclude any travel restriction days for the “services-PE” test.

Cross-Border Employment Income

- US resident employees temporarily working in Canada can be exempt CDN payroll under the Treaty where remuneration is less than \$10k or they are in Canada for less than 183 days
- Issue: US employees may be stuck in Canada due to travel restrictions
- Relief: CRA will not consider the days in Canada solely as a result of travel restrictions

Waiver Requests

- Amounts must be deducted and remitted in respect of payments to non-residents for services rendered in Canada (Regulation 105) and remuneration paid to a non-resident employees (Regulation 102)
- Waivers requests, including NR employer certification request, can be filed to reduce or eliminate this withholding obligation
- Issue: CRA is unable to process the waiver requests within 30 days
- Relief: CRA will not assess a person who fails to deduct, withhold or remit any amount as required by regulations 102 and 105 due to the interruption

Non-resident disposition of TCP

- Non-residents that dispose of taxable Canadian property (e.g. CDN real estate) are required to notify the CRA within 10 days after disposition. Withholding taxes must be remitted within 30 days of the end of the month in which property is disposed.
- Issue: CRA is unable to process these requests within timeframe.
- Relief: CRA will provide comfort letter to allow parties to retain funds in trust until the CRA's review is complete
 - Note: Comfort Letter process is not new and is almost always used in these filings.