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Dear Clients:

RE: Canada's Covid-19 Economic Response Plan Update

We previously wrote to you on April 3, 2020 to provide updates on Canada's COVID-19 Economic Response Plan. The memorandum provides further updates and pronouncements released to date and impacting our clients.

We will update our memorandum again for significant changes as they are released, but encourage our clients to call for specific advice in this constantly changing world.

Our updates to April 13, 2020 are as follows:

Extended tax return filing deadlines

The Canada Revenue Agency ("CRA") has extended tax and information return filing and payment deadlines as follows:

- Filing date for 2019 personal tax returns are deferred until June 1, 2020, and the payment deadline of taxes due for the 2019 tax year is deferred until September 1, 2020;
- For trusts with a December 31, 2019 taxation year-end, the tax return filing due date is deferred to May 1, 2020 and the payment deadline of taxes due for the current tax year is deferred until September 1, 2020;
- Filing date for corporate income tax returns due after March 18, 2020 and before June 1, 2020 have been extended until June 1, 2020, and the payment deadline of balances and instalments due on or after March 18, 2010 is deferred until September 1, 2020;
- Canadian registered charities filing the Registered Charity Information Return (T3010) with a normal filing deadline between March 18, 2020 and December 31, 2020 now have until December 31, 2020 to file;
- Filing date for partnership information returns due after March 18, 2020 is deferred until May 1, 2020;
- Filing date for Form NR4, *Statement of Amounts Paid or Credited to Non-Residents of Canada*, is extended to May 1, 2020;
- Filing date for any income tax information return due after March 18, 2020 is deferred until June 1, 2020; and
- Filing date of other forms and elections, including the Form T1134, *Information Return Relating to Controlled and Not-Controlled Foreign Affiliates*, due after March 18, 2020 is deferred until June 1, 2020.

We encourage clients to file their tax returns when they are able. Payment of income taxes is postponed to September 1, 2020 without interest or penalties.

No CRA post-assessments and audits

The CRA will not be contacting small or medium-sized businesses to initiate any post-assessment GST/HST or income tax audits.

Temporary Wage Subsidy for Employers

The Temporary Wage Subsidy for Employers was introduced to provide eligible employers an amount equal to 10% of salary and other remuneration paid to Canadian employees, to a maximum amount of \$1,375 per employee and \$25,000 per employer.

An “eligible employer” is defined to include the following:

- Individuals (sole-proprietors);
- Partnerships, where all of the members are individuals (other than trusts), registered charities, or CCPCs eligible for the small business deduction;
- Non-profit organizations and registered charities; and
- Canadian-controlled private corporations (“CCPCs”) eligible for the small business deduction.

You must have had a business number and payroll program account on March 18, 2020 and the maximum available subsidy is \$25,000.

Eligible employers need not apply for the subsidy. Once you calculate the amount of eligible subsidy, eligible employers can reduce current payroll remittances of federal or provincial income tax payable to the CRA by the amount of the subsidy. You cannot reduce your remittance of Canada Pension Plan contributions or Employment Insurance premiums.

Eligible employers can begin reducing payroll remittances of federal and provincial income taxes in the first remittance period that includes remuneration paid between March 18, 2020 and June 19, 2020.

If the income taxes deducted on payroll are not sufficient to offset the value of the subsidy in a specific period, future remittances can be reduced to benefit from the subsidy amount. This includes reducing remittances that may fall outside the application before for the wage subsidy (after June 19, 2020).

This subsidy will be included in taxable income in the year in which the subsidy is received.

Where an employer is eligible under both the Temporary Wage Subsidy and the Canada Emergency Wage Subsidy (discussed below), any benefit from the Temporary Wage Subsidy would generally reduce the amount claimable under the Canada Emergency Wage Subsidy for the same period.

Associated CCPCs are not required to share the maximum subsidy of \$25,000 per employer.

Canada Emergency Wage Subsidy

The Canada Emergency Wage Subsidy (“CEWS”) benefits businesses that have seen a decrease in gross revenue during this crisis.

The CEWS provides eligible employers a subsidy equal to 75% on the first \$58,700 (maximum of \$847 weekly) of “normal salary” paid to Canadian employees, for a period of up to 12 weeks, from March 15, 2020 to June 6, 2020.

Eligible Employers

Eligible employers include individuals, taxable corporations (including foreign-controlled corporations), and partnerships consisting of eligible employers as well as non-profit organizations and registered charities. Eligible employers must have experienced a 15% reduction in revenue in March 2020 and a 30% reduction in revenue in the months of April 2020 and May 2020 (see Revenue Calculation below).

Public bodies, including municipalities and other local governments, Crown corporations, public universities, colleges, schools and hospitals are not eligible for this subsidy.

An employer is not eligible to claim the CEWS for remuneration paid to an employee in a week that falls within the four-week period for which an employee is eligible for the CERB. To ensure no duplication of benefits, the Government of Canada is considering implementing a process to allow individuals rehired by their employer during the same eligibility period to cancel the CERB claim and repay that amount.

Revenue Calculation

The gross revenue compares revenue to the same month in the previous year (i.e. March 2020 versus March 2019). Businesses may elect to use alternative approaches in determining baseline revenue for the purpose of determining program eligibility for a particular period, as described below.

For the purpose of calculating year-over-year revenue, “revenue” is defined to include revenue from business carried on in Canada and earned from arm’s length persons. Revenue would be calculated using the employer’s normal accounting method, and would exclude revenues from extraordinary items and amounts on account of capital. Revenue is generally determined on an accrual basis, although a cash basis may be used in some circumstances. Employers select the accounting method when first applying for the CEWS and required to use the same method for the duration of the program.

For registered charities and non-profit organizations, the calculation includes most forms of revenue, including revenues from a related business, gifts and other amounts received in the normal course of its operations. These organizations are allowed to select whether or not to include revenue from government sources as part of the calculation. Once an approach is selected, the same approach applies throughout the program period.

Special rules apply to the revenue calculation to take into account certain non-arm’s length transactions where an employer provides products or services to a related company.

Affiliated groups have the option of combining the revenue results for all affiliates within the related corporate group, or alternatively each member of the related corporate group can determine revenue on a standalone basis.

Eligible Periods

Eligibility is determined based on the change in monthly revenues, as described above.

Employers are permitted to calculate the change in gross revenues using alternative benchmarks to determine eligibility in order to provide flexibility to those employers for which the general approach may not be appropriate, such as start-ups, new businesses, charities and non-profit organizations.

The alternative approach allows employers to compare revenue using an average of their revenue earned in January 2020 and February 2020. Employers can select the general year-over-year approach or this alternative approach when first applying for the CEWS and are required to use the same approach for the duration of the program.

The CEWS is segregated into three four-week periods beginning March 15, 2020. A business that meets the eligibility requirements for a particular four-week period is deemed to meet the requirements for the following four-week period.

Subsidy Amount

The amount of the CEWS depends on whether the employee was employed before March 15, 2020 or is hired after March 15, 2020. The CEWS for a pre-existing employee is the lesser of 75% of the average weekly remuneration paid from January 1, 2020 to March 15, 2020 and \$847 per week. The CEWS for a new employee is 75% of remuneration paid, up to a maximum of \$847 per week.

For employees that do not deal at arm's length with the employer, the subsidy will be limited to the eligible remuneration paid in any period between March 15, 2020 and June 6, 2020, up to the maximum of \$847 per week or 75% of the employee's pre-crisis weekly remuneration, whichever is less. Non-arm's length employees must have been employed prior to March 15, 2020.

Eligible remuneration includes salary, wages, and other remuneration, which are amounts for which an employer would normally be required to withhold or deduct amounts to remit to the Receiver General. However, it does not include severance pay, stock option benefits or personal use of a corporate vehicle.

There is no overall limit on the subsidy amount an eligible employer may claim, with the exception that the subsidy is only available for 12 weeks commencing March 15, 2020. The amount of the wage subsidy received by an employer is taxable.

Employers are expected to make their best effort to top-up employees' salaries to bring them up to the pre-crisis levels, as applicable.

Refund of Certain Payroll Contributions

The Government of Canada is proposing to expand the CEWS to introduce a new 100% refund for certain employer contributions to Employment Insurance ("EI") and the Canada Pension Plan.

The refund would cover 100% of employer contributions for eligible employees for each week throughout which those employees are on leave with pay and for which the employer is eligible to claim for the CEWS for those employees.

In general, an employee is considered to be on leave with pay throughout a week in which that employee is remunerated by the employer for that week but does not perform any work for the employer in that week.

This refund is not subject to the maximum weekly benefit of \$847 that an employer may claim in respect of the CEWS. There is no overall limit on the refund amount that an eligible employer may claim.

Employers are still required to collect and remit employer and employee contributions for each program. Eligible employers will apply for a refund at the same time they apply for the CEWS.

How to Apply

Applications for the CEWS will be made through the CRA's *My Business Account* portal, as well as a new web-based application which is expected to be available shortly. As part of the application process, employers will be required to attest that they are doing everything they can do to pay the remaining 25% to their employees.

Employers will be required to finance payroll costs up front, and upon demonstrating "pre-crisis" income paid to the employee, will receive the subsidy either by direct deposit to the business bank account within three days or by cheque within 10 days. Funds will become available in approximately six weeks.

Employers should register for direct deposit with the CRA to get faster access to refunds.

Interaction with the 10% Wage Subsidy

For employers that are eligible for both the CEWS and the 10% wage subsidy for a period, any benefit under the 10% wage subsidy for remuneration paid in a specific period would generally reduce the amount available to be claimed under the CEWS.

Compliance

Employers will be required to repay amounts received under the CEWS if it is later determined that they do not meet the eligibility requirements. Penalties may apply for fraudulent claims. Employers that undertake artificial transactions to reduce revenue for the purpose of claiming the CEWS will be subject to a penalty equal to 25% of the value of the subsidy claimed, and will be required to repay the subsidy amount in full.

Work-Sharing Program

The work-sharing program is designed to help employers and employees avoid layoffs when there is a temporary decline in business activity that is beyond the control of the employer. The program allows eligible employees that agree to reduce their normal working hours and share the available work to receive EI benefits.

For an employer to be eligible for the Work-Sharing Program, the business must be a year-round business in Canada that has operated for at least one year, be a private business or public company, or have at least two employees in a work sharing unit. The Government of Canada has extended the eligibility criteria for employers to include non-profit employers experiencing a shortage of work due to reduction in business activity caused by COVID-19.

For an employee to be eligible, the employee must be a year-round, permanent, full-time employee that is eligible to receive EI benefits and agrees to reduce their normal working hours by the same percentage to share the available work. In response to COVID-19, the Government of Canada has extended the eligibility criteria for employees to include those employees essential to the recovery and viability of the business.

The maximum duration of the Work-Sharing Program has been extended from 38 weeks to 76 weeks for those employers affected by COVID-19.

Business Credit Availability Program

The Government of Canada has established a Business Credit Availability Program (“BCAP”) to provide \$65 billion in additional support through the Business Development Bank of Canada (“BDC”) and Export Development Canada (“EDC”).

BDC and EDC are working with private sector lenders to coordinate lending solutions for individual small and medium-sized businesses.

This program includes:

i. Loan Guarantee for Small and Medium-Sized Enterprises (“SME”)

EDC is working with financial institutions to issue new operating credit and cash flow term loans for up to \$6.25 million for SMEs, with 80% guaranteed by EDC.

This loan program is to be used for operational expenses and is now available through various financial institutions and credit unions.

ii. Co-Lending Program for Small and Medium-Sized Enterprises

BDC is working with financial institutions to co-lend term loans to SMEs for their operational cash flow requirements. Eligible businesses may receive credit amounts up to \$6.25 million through this program.

The program is targeted to support businesses of different sizes, and is designed as follows:

- Loans of up to \$312,500 for businesses with revenues less than \$1 million;
- Loans of up to \$3.125 million for businesses with revenues between \$1 million and \$50 million; and
- Loans of up to \$6.25 million for businesses with revenues in excess of \$50 million.

These programs are expected to become available shortly. Interested businesses should reach out to their current financial institutions.

Canada Emergency Business Account

The Canada Emergency Business Account will provide small businesses (including not-for-profits) with interest-free loans up to \$40,000. These loans will be guaranteed by the Government of Canada and issued by eligible financial institutions.

These loans are eligible for complete forgiveness up to 25% (\$10,000) of the amount issued if the remaining 75% is repaid by December 31, 2022. If the loan is not repaid by December 31, 2020, the remaining balance will be converted into a three-year term loan bearing interest at 5%.

To qualify, these organizations will need to demonstrate they paid between \$50,000 and \$1 million in total payroll in 2019, and were operating as of March 1, 2020.

This program is now available at various financial institutions and credit unions. Interested businesses should reach out to their current financial institutions.

Temporary Increase to Employer Health Tax Exemption

Businesses with less than \$5 million in total Ontario remuneration have an exemption from Employer Health Tax (“EHT”) for the first \$490,000 in remuneration.

The EHT exemption for businesses with less than \$5 million in total Ontario remuneration has been increased to \$1 million, retroactive to January 1, 2020.

EHT returns will be corrected for businesses that have already paid instalments on the basis of the \$490,000 exemption.

Regional Opportunities Investment Tax Credit

To stimulate the economy in low employment regions of Ontario, the Government of Ontario is introducing a refundable Regional Opportunities Investment Tax Credit equal to 10% available to CCPCs who make qualifying capital expenditures in Ontario, but outside Ottawa, the Greater Toronto Area and many of the regions near the Greater Toronto Area. Please refer to the 2020 Ontario budget for a complete listing of eligible regions.

Qualifying expenditures are defined as those expenditures between \$50,000 and \$500,000 on property under Class 1 or Class 6 of the capital cost allowance rules in the *Income Tax Act (Canada)*.

The credit is only available if the qualifying investment becomes available for use on or after March 25, 2020.

Deferral of Sales Tax Remittances

The Government of Canada proposed to defer payments of Goods and Services Tax / Harmonized Sales Tax (“GST/HST”) until June 30, 2020.

The GST/HST deferral will apply to GST / HST payments or remittances that become owing on or after March 27, 2020 and before June 2020. No interest will apply if payments are made by the end of June 2020.

Deferral of Certain Taxes and Premiums

The Government of Ontario proposes to defer certain filing and remittance obligations for Ontario businesses.

The proposal includes interest and penalty relief for businesses if they miss a filing or payment for the Employer Health Tax, Tobacco Tax, Fuel Tax, Gas Tax, Beer, Wine and Spirits Taxes, Mining Tax, Insurance Premium Tax, International Fuel Tax Agreement, Retail Sales Tax on Insurance Contracts and Benefit Plans and Race Tracks Tax. The interest and penalty relief is for the period beginning April 1, 2020 and up until August 31, 2020.

In addition, businesses can defer remitting Workplace Safety and Insurance Board (“WSIB”) payments for up to six months for the period starting March 25, 2020 and ending August 31, 2020. All employers covered by WSIB are automatically eligible for the relief.

Canada Emergency Response Benefit

The Canada Emergency Response Benefit (“CERB”) is a taxable benefit that will provide \$2,000 per month for up to four months for workers who lose their income as a result of the COVID-19 pandemic.

The CERB is available to workers:

- Residing in Canada, who are at least 15 years old;
- Who have stopped working because of COVID-19 and have not voluntarily quit their job;
- Who had income of at least \$5,000 in 2019 or in the 12 months prior to the date of their application; and
- Who are or expect to be without employment or self-employment income for at least 14 consecutive days in the initial four-week period. For subsequent benefit periods, they expect to have no employment income.

Owner-managers that are remunerated by way of dividend are eligible for the CERB as long as the dividends are non-eligible dividends.

Workers who receive the CEWS are not also eligible for the CERB.

To reduce the administrative burden on the EI system, all Canadians who have ceased working due to COVID-19 would be able to receive the CERB, whether or not they are EI-eligible.

The portal to access the CERB was available effective April 6, 2020. Payments will begin within 10 days of application and will be paid every four weeks.

The CERB is available from March 15, 2020 until October 3, 2020.

Minimum RRIF withdrawals

The government has reduced the required minimum withdrawals from the Registered Retirement Income Funds by 25% for 2020.

Property Tax Value Reassessments

Properties are normally reassessed every four years for determining property taxes. This process will be postponed until 2021 resulting in a freeze to property taxes for 2020.

Our updates are based on generalized announcements and information sessions without the benefit of the force of law, interpretations or guidelines.

These updates are meant to be for informational purposes only, and should not be interpreted as our firm providing specific tax advice.

There are some potential traps which could result in unintended tax consequences. We encourage our clients to contact our office if you have any questions or require more specific advice on how these programs and initiatives impact you or your business.

Yours very truly,



TINKHAM LLP