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COVID-19 Economic Response 10% Temporary Wage Subsidy Guide

Purpose

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To the folks at the Department of Finance drafting the 10% Temporary Wage Subsidy (the "TWS") legislation, 10% of remuneration paid retroactive to March 18, 2020 to June 19, 2020 (the "Subsidy Period"), up to $1,375/employee to a maximum of $25,000/employer, sounded straightforward. In reality, it left many employers confused more than anything.

As Hogg, Shain & Scheck continues to receive questions about the TWS, we thought it would be helpful to clients if we provided a guide that addresses the most common questions we're getting and provides a detailed example for you to follow.

The questions and issues addressed are:

- What does it mean for my Canadian-controlled private corporation ("CCPC") to be "eligible" for the Federal small business deduction?
- Can Charities/NPOs access the TWS? What differences are there?
- How is the TWS applied for?
- What does "remuneration retroactive to March 18, 2020" mean?
- The legislation talks about "10% of monthly remuneration" but we run weekly, bi-weekly or semi-monthly payroll. How do we calculate the TWS?

Conceptual Framework

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Before addressing the most common TWS questions, we think it would be helpful for clients to understand, conceptually, what the TWS represents. The Subsidy Period runs from March 18 to June 19, 2020, a 3 month period. So for now, just think of the Subsidy Period as a quarterly fiscal period as opposed to the dates.

With a limit of $1,375/employee, an employer will max out the subsidy by paying an employee $13,750 during the Subsidy Period, or $4,583/month. There is then a limit of $25,000/employer.

For associated CCPCs, NPOs or charities, each entity gets it owns $25,000 limit.

Some employers are confused by the continual references in the legislation to “monthly payroll” since most employers run payroll more frequently. It is meant, however, to make the subsidy calculations easier on employers by not having to track a subsidy amount for each individual employee.

For example, an employer has 7 employees with total annual gross pay of $480,000, or $40,000/month. For month 1 of the Subsidy Period, the employer’s TWS is the lesser of:

- $4,000 ($40,000 x 10%),
- $9,625 (7 x $1,375), and
- $25,000.

Conceptual Framework

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Where Monthly Pay per Employee is More or Less than $4,583 on Average

- If average monthly pay per employee is less than $4,583 and the value of the subsidy exceeds remittances, the unused subsidy is carried forward and available for use in future pay periods, even those after June 19, 2020.
- If average monthly pay per employee exceeds $4,583, there will be slippage (i.e.: remuneration paid not eligible for the subsidy).
  - In such a situation, an employer could consider hiring part-time workers or people looking to gain experience in a certain field, thereby reducing its average pay per employee.

Is My CCPC Eligible?

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Eligible For and Able To Claim are not the Same

With respect to corporations, the TWS legislation states that CCPCs that are eligible for the Federal small business deduction (the "SBD") can claim the TWS.

This has caused confusion and contradictory information to be released in the finance community because there are ways that a CCPC can be eligible for the SBD but may not be able to claim it. For example:

- Associated CCPCs are required to share the SBD limit.
- CCPCs with taxable capital, on an associated basis, of $10 to $15+ million will have their SBD limit reduced/eliminated.

In our view, there is little ambiguity. A CCPC's income is eligible for the SBD if the corporation has been a CCPC throughout a taxation year and generates active business income ("ABI"). The provisions that claw back or require sharing refer to the SBD limit (being $500,000). These provisions simply impact the amount of a CCPC's SBD eligible income subject to small business rates. They should not impact a CCPC's fundamental SBD eligibility. Furthermore, the legislation released to date does not indicate that either of the above conditions would hamper TWS eligibility.

In other words, CCPCs with SBD eligible income that are unable to claim the SBD ***should be eligible for the TWS.***

Open to Charities/NPOs?

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Can Charities/NPOs Access the TWS?

Yes, charities/NPOs are able to claim the TWS on remuneration paid to individuals employed in Canada. This is the same criteria as for CCPCs.

As with CCPCs, the amount of the subsidy claimed has to be included in income by charities/NPOs as if it were any other form of government assistance. However, as tax exempt entities, charities/NPOs **will not pay tax** on the amount of subsidy assistance received.

Please note, unless specified as applying only to CCPCs, all information in this guide is applicable to charities/NPOs.

How do I Apply?

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There is no formal application process.

The TWS is "obtained" by reducing income tax remittances

Example:

Remuneration for the Period	Income Tax	CPP	EI	CPP – Emp.	EI – Emp.	Total
$50,000	$8,000	$1,000	$300	$1,000	$420	$10,720
Less: TWS for the period ($50,000 x 10%)						(5,000)
Remittance made to the CRA						<u>$5,720</u>

Employer retains this cash

Amount of TWS is taxable

<u>Notes:</u>

1. Employers, or their payroll service providers ("PSPs"), are required to calculate the TWS themselves.

2. Employers are required to maintain records and documentation to support their calculations.

3. Subsidy can only be claimed against income tax remittances. **CCP and EI remittances must be made as normal**.

3. Subsidy does not impact amount of income tax deducted, CPP and EI reported on an employee's T4.

Retroactive to March?

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The TWS covers remuneration paid during the Subsidy Period, retroactive to March 18, 2020. This does not mean employers have to refile or amend pay periods from March 18 to claim the subsidy. It just means that the remuneration you paid since that day qualifies. Employers can catch-up by claiming prior pay period subsidies by reducing current employee income tax remittances.

Example:
An employer has 3 employees who are paid weekly. There have been two pay periods since March 18, 2020, ending on March 24 and 31. Each employee makes $1,000/week and the employer wants to claim the TWS retroactively for the two March periods when making remittances for its April 7, 2020 pay period. Income tax remittances for the pay period, before factoring in the TWS, are $1,500.

Subsidy Calculation

	March 24	March 31	April 7
Remuneration	$3,000	$3,000	$3,000
Subsidy @ 10%	$300	$300	$300

Remittance Calculation

	April 7
I/T remittances	$1,500
TWS claimed	(900)
I/T remittances made	$600

How to Calculate?

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	Mar. 18 to Apr. 19	Apr. 20 to May 19	May 20 to June 19
Employees	20	20	23
Total remuneration (paid semi-monthly):			
Pay period 1 - 30th of the month	55,000	55,000	63,250
Pay period 2 - 15th of the subsequent month	55,000	55,000	63,250
	110,000	110,000	126,500
Subsidy, lesser of:			
10% of monthly remuneration	**11,000**	**11,000**	12,650
Maximum allowed **(Note 1)**	25,000	14,000	**3,000**
Subsidy for the month	11,000	11,000	3,000
Claimed by reducing payroll remittances per:			
Pay period 1 - 30th of the month	- 5,500	- 5,500	- 1,500
Pay period 2 - 15th of the subsequent month	- 5,500	- 5,500	- 1,500
Remaining subsidy for carry forward	-	-	-

In our example, the employer is claiming the full subsidy per pay period as it becomes available. However, employers can carry a (portion of a) period's subsidy forward for use in the future.

As can be seen, the calculation itself is simple. The only hazard lies in determining the appropriate subsidy threshold and keeping a continuity schedule.

Remember, your employer subsidy threshold is the lesser of:

- $25,000, and
- $1,375 x the max employees during Subsidy Period.

NOTES:

1. Maximum Subsidy Continuity

Max employees during Subsidy Period:		23		
Max subsidy per employee:		1,375		
Max subsidy for the Subsidy Period:		25,000 A		
Lesser of:				
Employer max	**25,000 A**			
Employee max x 23	31,625			
		Mar. 18 to Apr. 19	**Apr. 20 to May 19**	**May 20 to June 19**
Op. balance		25,000	14,000	3,000
Claimed		- 11,000	- 11,000	- 3,000
Cl. Balance		14,000	3,000	-