

Summary of Outstanding COVID-19 Tax Issues

(Excluding the Canada Emergency Wage Subsidy)

Current as of April 8, 2020



We have received many emails from members and others in the business and tax community highlighting tax issues and questions arising from the COVID-19 pandemic.

Since so many questions and issues arose on the Canada Emergency Wage Subsidy, we have dealt with those issues in a [separate summary](#).

We have summarized the feedback received which has been communicated to the federal government in key themes. We have excluded feedback and questions where the government has already responded, such as issues related to filing and payment deadline extensions. Another common concern was the omission of proprietorships and partnerships for the Temporary Wage Subsidy, but this issue was resolved in Bill C-13.

Feedback and Update on Deadlines

We have received many emails from members regarding deadline specific issues. Most of these issues were clarified with the recent federal government filing and payment extension announcements. Some updates are summarized below along with a few outstanding issues.

Income tax filings – Before dealing with specific issues, we did want to highlight the federal government’s rationale for their extension announcement for income tax filings. During discussions with the CRA, they stated that they wanted to communicate that deadlines were broadly extended to June 1, 2020 unless specific reference was made to another date (for example May 1 for partnerships, trusts and NR4s) or no extension applied (e.g. SRED claims). Reference should be made to the March 26, 2020 CRA stakeholder email. In terms of income tax forms and filings, the main outstanding issue is whether an extension will be allowed for SRED claims.

Income tax payment extension – The main unresolved issue for income tax payments is whether the payment extension for income tax applies to taxes for corporations outside of Part I, such as Part IV and Part VI.1. The latest statement by the federal government refers to Part I tax only. Similarly, some had asked for more clarity around Part XII.2 tax for trusts (the CRA currently refers to income tax balances for trusts).

GST filings and payments – On GST, the government decided that there will not be a specific deadline extension for GST returns despite the fact that the deadline for remitting GST was extended to the end of June 2020 for amounts that became owing on or after March 27, 2020. However, it was stated that “the CRA won’t impose penalties where a return is filed late provided that it is filed by June 30th”.

Other tax payments – Unless specifically referred to, the due date for other tax payments has not been extended, such as the deadline for Part XIII tax or payroll source deductions. We understand that extensions are not being contemplated for these amounts.

For more information:

- [CRA’s email to stakeholders on March 26, 2020](#)
- [CRA Key Deadline Summary \(not exhaustive\)](#)

General Technical & Administrative Issues

In addition to deadline feedback, we have also received concerns related to general technical and administrative income tax matters (GST issues are discussed later). These outstanding issues include:

Canadian Emergency Business Account (CEBA) – Definition of Payroll – The new CEBA program will provide interest-free loans of up to \$40,000 to small businesses and not-for-profits, to help cover their operating costs during a period where their revenues have been temporarily reduced. To qualify, these organizations will need to demonstrate they paid between \$50,000 to \$1 million in total payroll in 2019. Many of our members’ small business clients remunerate themselves with a combination of wages and dividends and use subcontractors as needed. In such cases, “remuneration” to the owner and contractors exceeds \$50,000 while actual salary and wages may not. We have asked the government whether the rules could be broadened to cover other forms of remuneration. This issue should be reviewed for other programs as applicable.

Temporary Wage Subsidy (TWS) – Indigenous Owned Enterprises – An indigenous community owned enterprise that operates a retail store, hotel, etc. on-reserve as a corporation that is tax exempt under s. 149(1)(d.5) of the Income Tax Act appears not to be eligible for the TWS. Similarly, an indigenous

community owned enterprise that operates a business as a limited partnership of the indigenous communities themselves and a general partner corporation appear not to be eligible as the partnership is not comprised of eligible employers.

Temporary Wage Subsidy and CCPCs – For the TWS, CCPCs are eligible provided that taxable capital is below \$15 million in the prior year. Where the CCPC is a member of an associated group, the group does not have to share the \$25,000 employer limit. To be eligible, a corporate member of the group must have been allocated a portion of the annual business limit in the prior year. Given that the annual limit was allocated without knowing that it would impact the TWS, the question was asked if this allocation can be amended or whether the CCPC eligible employer rule could be changed.

Canada Emergency Response Benefit (CERB) and Supplementary Unemployment Benefit Plan (SUBP) – The federal government should provide greater clarity on the interaction between CERB and SUBP. For example, can employees elect to stay on the existing SUBP instead of CERB, and if so, how can employees get through the EI system instead of being directed to the CERB?

RRIF and 25% minimum withdrawal reduction – Although the measures allow Canadians to reduce their minimum RRIF withdrawals by 25%, there has been no confirmation of whether Canadians who have already withdrawn the minimum prescribed amount may re-contribute the excess back into their RRIF. A similar measure was implemented during the 2008–2009 financial crisis.

Mind and Management and Corporate Residence – Given the current travel environment there will be issues related to maintaining mind and management outside Canada for foreign subsidiaries as management teams may be restricted to Canada.

Section 116 and T2062 Certificate of Compliance Requests – Given the timely need for compliance certificates, we asked the CRA to provide guidance on how these forms will be processed given reduced staffing capacity at the CRA. Delays could result in significant cash flow issues.

Mutual Fund Trust Status – A unit trust formed in 2019 can be retroactively deemed to be a mutual fund trust for its year ended December 31, 2019 if, before the 91st day of 2020, it satisfies, among other things, requirements

relating to the number of its unitholders. There may be instances, as a result of the coronavirus situation, that unit trusts may not meet the requirement within that timeframe where they may have under normal circumstances.

Employee Allowances and Expenses – Some corporations are considering providing an allowance to employees to help cover costs related to setting up their home offices so they can continue working from home. Further, some employers are providing their employees with a per diem allowance of which the purpose is to cover private transportation, meals and any other expenses necessary to keep employees safe who must work outside of their home. These employers are asking whether the federal government will legislatively or administratively treat these amounts as non-taxable amounts given our current unprecedented circumstances.

T2200 Declaration of Conditions of Employment – To alleviate the administrative burden of issuing numerous T2200 Declaration of Conditions of Employment, we asked the government whether a streamlined approach could be used in lieu of completing the form. Otherwise, many employment contracts may need to be amended and a related T2200 prepared, which could be a large administrative burden for many employers. The federal government has also been asked whether the rules for home office expenses need to be revised to deal with costs for people unexpectedly working at home.

Accelerating loss carry back refunds – As a way to assist taxpayers with cashflow issues, members have suggested the CRA consider administrative processes to accelerate loss carry back requests.

Taxpayer Relief – In order to provide tax preparers and taxpayers with peace of mind, our members suggested that the CRA communicate clearer guidance on situations where taxpayer relief will be granted in situations where the extension does not apply. CPA Canada has passed on suggestions to the federal government on this. For example, we suggested streamlining the taxpayer relief process related to COVID-19, by developing a customized version of Form RC4288 for COVID-19 as well as a process that would allow tax preparers and advisors to obtain relief for clients on a group basis.

Voluntary Disclosure Payment Requirement – In order to assist taxpayers with cash flow issues who would like to become compliant, members have suggested the CRA consider deferring the payment of taxes owing at the time of filing their voluntary disclosure request until a later time.

Time Sensitive Rulings Requests – Members have expressed concern on how CRA rulings will deal with time sensitive transaction rulings. Given the CRA is operating with limited resources, what is the CRA planning to ensure such requests are addressed?

Electronic signatures – Will the CRA accept electronic signatures on forms beyond T183s and other forms where the federal government has already made an announcement?

Electronic filing of other forms – We asked the CRA if it would be possible to identify ways to file forms and other correspondence with the CRA electronically, beyond the current online services.

Income payable to non-resident trust beneficiaries – A concern was raised due to the fact that the deadline for trust returns was extended but not the deadline for the remittance of Part XIII tax. The concern specifically related to situations where the income was made payable by a reference to a percentage of trust income where the final amount is not determined until the trust return is completed and filed.

General GST/HST Concerns

GST/HST Registration Process – Given the CRA is operating at limited capacity, many members are concerned that GST/HST account number requests will be delayed and result in late remittances and returns. The CRA should consider providing more guidance on how it plans on dealing with registration requests as any delays could provide taxpayers with significant penalty exposure.

GST/HST Bad Debt Relief – As recommended by the OECD, the federal government should simplify procedures for claiming relief on bad debts to assist taxpayers with cash flow needs.

GST Refund Holds – To assist taxpayers with cash flow issues, the CRA should consider relieving the hold on refunds for taxpayers who are not compliant in other program accounts where the non-compliance is not significant.