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Canada and Covid-19: Canadian tax measures adopted in response to the COVID-19 crisis

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Abstract

The following report summarizes the most salient tax measures adopted by the government of Canada in response to the COVID-19 crisis. These measures target both individuals and businesses in an effort to alleviate the dire economic consequences of the COVID-19 pandemic on the lives of Canadians. The last section of the report briefly considers some of the prospective fiscal avenues available to help the Canadian economy recover from this unprecedented worldwide crisis.

Keywords

COVID-19 – Canadian tax measures – The Canada Emergency Response Benefit – The Canada Emergency Wage Subsidy, international income tax issues relating to COVID-19 – Canadian economy

Table of contents

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Introduction

Much like elsewhere on the planet, the COVID-19 pandemic has had a profound impact on the Canadian economy, leading it into a recession.

Since the initial outbreak, Canada has announced numerous financial and tax measures in an effort to alleviate the dire economic consequences of the COVID-19 pandemic. In addition to extending certain tax filing and payment deadlines, Canada has provided a variety of financial measures for Canadian individuals and businesses affected by the COVID-19 outbreak.

While these measures, first announced on March 18, 2020 as part of an initial $82-billion aid package and further reinforced and improved over time, were by definition temporary, many of them remain in force as of today.

The purpose of this report is to depict a panoramic overview of the tax measures adopted by Canada in response to the COVID-19 crisis, as well as to provide some insights on the prospective tax measures intended to help Canadian economy recover from this world-wide crisis[1].

I. Measures with respect to individuals

I.1. Canada Emergency Student Benefit (CESB)

• Available between May 10th and August 29th, 2020

The Canada Emergency Student Benefit (CESB) provided financial support to post-secondary students, and recent post-secondary and high school graduates who were unable to find work due to COVID-19.

Applicants received $1,250 for a 4-week period for a maximum of 16 weeks, between May 10 and August 29, 2020.

Applicants could also get an extra $750 (total benefit amount of $2,000) for each 4-week period, if they had a disability or dependants.

I.2. The Canada Emergency Response Benefit (CERB)

• Available between March 15th and September 26th, 2020.

The Canada Emergency Response Benefit (CERB) gives financial support to employed and self-employed Canadians who are directly affected by COVID-19.

For CERB purposes, a worker is any person aged 15 or more, who is a resident of Canada and who, for the 2019 calendar year or in the twelve (12) months preceding the date on which the worker files the CERB claim, earned at least $5,000 in income. The income must have come from one or several of the following sources:

- employment;
- self-employment;
- benefits paid under the Employment Insurance Act;
- allowances, money or other benefits paid to the person under a provincial plan because of pregnancy or in respect of the care by the person of one or more of their newborn children or one or more children placed with them for the purpose of adoption.

To be eligible, applicants must attest they: did not quit their job voluntarily, have stopped working or are working reduced hours due to COVID-19, and are earning less than $1,000 in employment or self-employment income.

An eligible worker can receive $2,000 for a 4-week period (the same as $500 a week).

[1] Since Canada is a federation, all Canadian provinces also initiated emergency measures in response to the virus outbreak. This report focuses solely on tax measures initiated at the federal level. Furthermore, it does not claim to be exhaustive.

An applicant may can apply for a maximum of 7 periods (28 weeks).

I.3. Modifications to the Employment Insurance (EI) program

• Available between September 27th, 2020 and September 25th, 2021.

Temporary changes to the Employment Insurance (EI) program to broaden the coverage of the program.

Under these new rules, an individual may be eligible for EI if she/he:

- was employed for at least 120 insurable hours in the past 52 weeks;
- received the CERB, the 52 weeks period to accumulate insured hours will be extended;
- stopped working through no fault of her/his own;
- has not quit the job voluntarily;
- is ready, willing and capable of working each day (EI regular benefits);
- is temporarily unable to work while caring for someone else or herself/himself (EI maternity, parental, sickness, compassionate care, and family caregiver benefits).

An eligible person for EI benefits, will receive a minimum taxable benefit at a rate of $500 per week, or $300 per week for extended parental benefits.

Individuals not eligible for EI benefits, may be eligible for the following benefits, discussed below:

- Canada Recovery Benefit (CRB);
- Canada Recovery Sickness Benefit (CRSB);
- Canada Recovery Caregiving Benefit (CRCB).

I.4. Canada Recovery Benefit (CRB)

• Available between September 27th, 2020 and September 25th, 2021.

The Canada Recovery Benefit (CRB) gives income support to employed and self-employed individuals who are directly affected by COVID-19 and are not entitled to Employment Insurance (EI) benefits.

To be eligible for the CRB, the individual must either not be employed or self-employed for reasons related to COVID-19, or she/he has had a 50% reduction in the average weekly income compared to the previous year due to COVID-19.

The applicant did not apply for or receive any of the following for the same period:

- Canada Recovery Sickness Benefit (CRSB);
- Canada Recovery Caregiving Benefit (CRCB);
- short-term disability benefits;
- workers' compensation benefits;
- Employment Insurance (EI) benefits;
- Québec Parental Insurance Plan (QPIP) benefits.

An eligible worker can receive $1,000 ($900 after taxes withheld) for a 2-week period.

An applicant may can apply for a maximum of 13 periods (26 weeks).

I.5. Canada Recovery Caregiving Benefit (CRCB)

• Available between September 27th, 2020 and September 25th, 2021

The Canada Recovery Caregiving Benefit (CRCB) gives income support to employed and self-employed individuals who are unable to work because they must care for their child under 12 years old or a family member who needs supervised care. This applies if their school, regular program or facility is closed or unavailable to them due to COVID-19, or because they are sick, self-isolating, or at risk of serious health complications due to COVID-19.

To be eligible for the CRCB, the applicant must meet all the following conditions for the 1-week period:

a) The applicant is unable to work at least 50% of the scheduled work week because she/he is caring for a family member;
b) The person cared for is a child under 12 years old or a family member who needs supervised care because they are at home for **one of the following reasons**:
   - Their school, daycare, day program, or care facility is closed or unavailable to them due to COVID-19;
   - Their regular care services are unavailable due to COVID-19;
   - The person under the care is:
     - sick with COVID-19 or has symptoms of COVID-19;
     - at risk of serious health complications if they get COVID-19, as advised by a medical professional;
     - self-isolating due to COVID-19.
c) The applicant did not apply for or receive any of the following for the same period:
   - Canada Recovery Benefit (CRB);
   - Canada Recovery Sickness Benefit (CRSB);
   - short-term disability benefits;
   - workers' compensation benefits;
   - Employment Insurance (EI) benefits;
   - Québec Parental Insurance Plan (QPIP) benefits.

An eligible applicant can receive $500 ($450 after taxes withheld) for a 1-week period.

An applicant may can apply for a maximum of 26 weeks.

I.6. Canada Recovery Sickness Benefit (CRSB)

• Available between September 27th, 2020 and September 25th, 2021

The Canada Recovery Sickness Benefit (CRSB) gives income support to employed and self-employed individuals who are unable to work because they are sick or need to self-isolate due to COVID-19, or have an underlying health condition that puts them at greater risk of getting COVID-19.

To be eligible for the CRSB, the applicant must meet all the following conditions for the 1-week period:

a) The applicant is unable to work at least 50% of your scheduled work week because she/he is self-isolating for one of the following reasons:
   - Is sick with COVID-19 or may have COVID-19;
   - Is advised to self-isolate due to COVID-19;

- Has underlying health condition that puts you at greater risk of getting COVID-19.

b) The applicant did not apply for or receive any of the following for the same period:
- Canada Recovery Benefit (CRB);
- Canada Recovery Caregiving Benefit (CRCB);
- short-term disability benefits;
- workers' compensation benefits;
- Employment Insurance (EI) benefits;
- Québec Parental Insurance Plan (QPIP) benefits.

An eligible applicant can receive $500 ($450 after taxes withheld) for a 1-week period. An applicant may can apply for a maximum of 26 weeks.

I.7. Other measures targeting individuals

Many other measures were put in place by the Canadian government to help individuals face the economic challenges caused by the COVID-19; the salient measures are the following:

a. A mortgage payment deferral program of up to six months for helping homeowners facing financial hardship;

b. A one-time, tax-free, non-reportable payment of $600 to help Canadians with disabilities who are recipients of any of the following programs or benefits:
- holders of a valid Disability Tax Credit certificate,
- beneficiaries as at July 1, 2020 of:
  - Canada Pension Plan Disability;
  - Quebec Pension Plan Disability Pension;
  - Disability supports provided by Veterans Affairs Canada.

c. An increase in the Canada Child Benefit: Payments for the 2019–20-year were increased by $300 per child;

d. Changes to the Canada Student Loans Program to allow more students to qualify for support and be eligible for greater amounts.

e. Temporarily extending the Guaranteed Income Supplement and Allowance payments to ensure that the most vulnerable seniors continue to receive their benefits when they need them the most.

In summary, the Canadian tax measures targeting individuals have been broad, swift and generous, dictated by the goal to help households overcome the harsh financial burden caused by the virus outbreak. Since these measures were promulgated in an expedite manner, it would be both facile and unfair to overly criticize them for their lack of technical perfection.

Nonetheless, the government's decision not withhold tax at source for the payments made pursuant to CERB program has been a source of unnecessary stress on recipients of such amounts, and could have been avoided. Indeed, since the CERB payments are taxable under the Canadian tax law, such recipients may have to reimburse a portion of the gross amounts received depending on their marginal tax rate.

It would have been judicious to withhold at source a portion of the CERB payments as is the case with amounts received through the CRB, the CRSB and the CRCB. Indeed, as explained above, these three programs provide for a 10% withholding tax.

II. Measures with respect to businesses

II.1. The Canada Emergency Wage Subsidy (CEWS)

The Canada Emergency Wage Subsidy (CEWS) is a subsidy that was initially available for a period of twelve weeks, from March 15, 2020 to June 6, 2020, that provides a subsidy of 75% of eligible remuneration, paid by an eligible entity (eligible employer) that qualifies, to each eligible employee – up to a maximum of $847 per week.

For the purposes of the CEWS, an eligible employer means:

- a corporation or a trust, other than a corporation or a trust that is exempt from tax under Part I of the Income Tax Act or is a public institution (see Q3-01);
- an individual other than a trust;
- a registered charity (other than a public institution);
- a person that is exempt from tax under Part I of the Act (other than a public institution), that is:
  - an agricultural organization;
  - a board of trade or a chamber of commerce;
  - a non-profit corporation for scientific research and experimental development;
  - a labour organization or society;
  - a benevolent or fraternal benefit society or order; and
  - a non-profit organization;
- a partnership, each member of which is a person or partnership described in this list;
- a prescribed organization, including certain Indigenous businesses.

For the first sixteen weeks (from March 15, 2020 to July 4, 2020), eligible employers, such as business owners, that see a drop of at least 15% of their qualifying revenue in March 2020 and 30% for the following months of April, May and June, when compared to their qualifying revenue for the same period in 2019 (or the average of January and February 2020, in some circumstances), qualify for the wage subsidy.

For the following twenty weeks (i.e., from July 5, 2020 to November 21, 2020), the CEWS has been modified to be available for all eligible employers that experience a decline in revenue for a claim period, with a base wage subsidy amount, and an additional top-up wage subsidy amount (for those employers that have been most adversely affected by the COVID-19 crisis. Further, for the fifth and sixth periods, an eligible employer can calculate their wage subsidy in certain circumstances, under the rules that apply to the first four periods if the result is more favourable (safe harbour rule).

On September 23th, 2020, the Canadian government confirmed its intention to extend the CEWS until June 2021. Details as to the computation of the CEWS for periods after November 21, 2020 are yet to come.

The CEWS constitutes the principal Canadian program designed to provide support to businesses suffering from revenue losses and help them keep their employees on the payroll. Due to the many modifications made throughout its existence and its technical intricacies, Canada Revenue Agency has already began carrying out audits to ensure that the businesses having claimed CEWS were legally entitled to the amounts received.

II.2. Canada Emergency Business Account (CEBA) interest-free loans

The Canada Emergency Business Account (CEBA) provides 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.

All applicants have until December 31, 2020, to apply for CEBA.

On October 9th, 2020 the Canadian government announced that the 40,000$ will be expanded a further 60,000$.

III. Some international income tax issues[2]

III.1. Residency for individuals for Canadian income tax purposes

In general, an individual's residence for Canadian tax purposes is a common-law factual determination based on the individual's residential ties to Canada. In addition, an individual who temporarily stays (is physically present) in Canada for a period of, or periods that total 183 days or more in a tax year will be deemed to be resident in Canada throughout the year.

If an individual stayed in Canada only because of the travel restrictions, that factor alone will not cause the Canada Revenue Agency to consider the common-law factual test of residency is met. Also, the CRA will not consider the days during which an individual is present in Canada and is unable to return to their country of residence solely as a result of the travel restrictions to count towards the 183-day limit for deemed residency.

III.2. Carrying on business in Canada

Pursuant to the Canadian income tax system, non-residents of Canada are liable to pay tax on their income from "carrying on business in Canada". In general, where Canada has

[2] See Canada Revenue Agency, *International Income Tax Issue* (2020), section *Disposition of taxable Canadian property by non-residents of Canada* <https://www.canada.ca/en/revenue-agency/campaigns/covid-19-update/guidance-international-income-tax-issues.html#h_v> accessed 18 February 2021.

entered into an income tax treaty with another country, a resident of that country will only have to pay tax in Canada on that income if their activities in Canada meet the threshold of a "permanent establishment" under the relevant income tax treaty.

Non-resident entities that are resident in a jurisdiction with which Canada has an income tax treaty and that are carrying on business in Canada, but whose activities in Canada do not meet the threshold of permanent establishment, have to file a return for that year in order to claim an exemption from Canadian income tax. This filing obligation continues to apply for the tax years of non-resident entities that overlap with the period while the travel restrictions are in place. However, as an administrative matter, the CRA will not consider a non-resident entity to have a permanent establishment in Canada because its employees perform their employment duties in Canada solely because of the travel restrictions imposed in the context of the COVID-19 pandemic.

IV. Extension of Income tax filing, payment deadlines and judicial deadlines

IV.1. Deadlines applicable to taxpayers

The deadline for filing tax returns for individuals for the 2019 taxation year was extended from April 30, 2020 to June 1, 2020.

The deadline for filing tax returns for corporations that would otherwise have a filing deadline after March 18 and before May 31, 2020 was extended to June 1, 2020.

The deadline for filing tax returns for corporations that would otherwise have a filing deadline on May 31, or June, July, or August 2020 was extended to September 1, 2020.

Penalties and interest will not be charged if payments are made by the extended deadlines of September 30, 2020. This includes the late-filing penalty as long as the return is filed by September 30, 2020 (related to the 2019 tax return for individuals and the tax returns for trusts and corporations that would otherwise be due on or after March 18, 2020, and before September 30, 2020).

IV.2. Deadlines applicable to the tax authority

In the context of the COVID-19 pandemic, the Canadian government suspended its collection and compliance (audit) activities.

Starting in September 2020, the CRA resumed its audits and collections activities.

IV.3. Deadlines applicable to judicial tax appeals

On July 27, 2020, the federal Time Limits and Other Periods Act (COVID-19) (the "Act") came into force. The Act suspends time limits relating to Tax Court of Canada proceedings that are contained in the Income Tax Act, Excise Tax Act, Tax Court of Canada Act, Tax Court of Canada Rules (General Procedure), Tax Court of Canada Rules (Informal Procedure), and other statutes and regulations from March 13, 2020 to September 13, 2020.

V. Burden of the COVID-19 pandemic on Canadian economy: Looking Towards the future

On July 8th, 2020, Canada's Minister of Finance indicated that the temporary measures implemented through the government's economic response plan will have a significant impact on the federal deficit for the 2020-2001 fiscal year. Combined with the severe deterioration in the economic outlook, these result in a projected deficit of $343.2 billion. Net federal debt will hit $1.2 trillion[3].

Through Canada's COVID-19 Economic Response Plan, the government has committed:

- Over $212 billion in direct support to Canadians and businesses;
- $85 billion in tax and customs duty payment deferrals to meet liquidity needs of businesses and households;
- 5.8 billion in support for coordinated federal, provincial and territorial action to strengthen critical health care systems, purchase personal protective equipment and supplies and support critical medical research and vaccine developments; and,
- Approximately $14 billion to support provinces and territories in the safe reopening of the country's economies over the next 6-8 months.

It is worth asking, how Canada will succeed in balancing its budget in the upcoming years and decrease the amount of its fiscal debt. Granted, the obvious answer is by increasing its tax base. But how will Canada succeed in achieving this goal. One avenue would be to install a wealth tax. That's the thesis brought forth by the eminent intellectual Thomas Piketty in his 2014 book, *Capital in the Twenty-First Century*, who has his fair share proponents in Canada.

In addition, a new paper from the Broadbent Institute pleads for the elimination of tax breaks for capital gains and dividends, a higher top tax bracket, changes to corporate taxes and an increase in consumption taxes[4].

Both those suggestions (a wealth tax and a major modifications of the Canadian tax rates) may seem appealing at first, but do not constitute in my view the path Canada should chose going forward.

Without delving too deeply into the merits of a wealth tax, which I have always found unjust (on philosophical grounds) and impractical (on inevitable valuation impediments), or an overhaul of the existing tax rates and inclusions, which would undoubtedly alienate many taxpayers (most of whom believe they are already paying too much tax), I believe that a less controversial solution for Canada lies elsewhere: the fight against international tax avoidance.

[3] See Department of Finance of Canada, *The Economic and Fiscal Snapshot 2020* (Report 2020) <https://www.canada.ca/en/department-finance/services/publications/economic-fiscal-snapshot.html> accessed 18 February 2021.

[4] Broadbent Institute, *Paying for the recovery we want* (2020) <https://www.broadbentinstitute.ca/paying_for_the_recovery_we_want> accessed 18 February 2021.

Indeed, if there is an event that has highlighted the immutability of our human condition and the brittleness of our institutions, it is the COVID-19 pandemic. One positive facet of this global struggle against the disease has been the strengthening of international collaboration, which should extend to the sphere of global concertation on the fight against the international tax avoidance. The OECD's recently published blueprints for Pillar One and Pillar Two on digital tax reform[5] is a step into the right direction, which would hopefully benefit Canada. ation, proportional and necessary measures for a "recovery" legislation should simplify administrative procedures, at least to allow the Italian renewable energy sector to reach the emissions reduction targets required by the European Union[6].

5 OECD, *Tax Challenges Arising from Digitalisation – Report on Pillar Two Blueprint* (Report, 14 October 2020) <http://www.oecd.org/tax/beps/tax-challenges-arising-from-digitalisation-report-on-pillar-two-blueprint-abb4c3d1-en.htm> accessed 18 February 2021.

6 Under the 'Clean Energy For All Europeans' Package (Regulations and Directives), the European Commission required all Member States to meet international emissions targets by increasing the share of energy produced from renewable sources (+32% by 2030) and improve energy efficiency (+32.5% by 2030).