# BBLLP Tax Tips

BBLLP Tax Tips is a quarterly publication designed to provide general information about significant tax news and updates. You can find all editions of this publication on our website located here.

## Canada Pension Plan: Costs are Increasing in 2021

The maximum pensionable earnings and contribution rate for 2021 have now been released and are a surprise to many; the cost of CPP is significantly increasing.

| Year | Max. Pensionable Earnings ($) | Employer/ee Contribution Rate (%) | Max. Annual Employer/ee Contribution ($) | Max. Annual Self-Employed Contribution ($) |
|---|---|---|---|---|
| 2019 | 57,400 | 5.10 | 2,749 | 5,498 |
| 2020 | 58,700 | 5.25 | 2,898 | 5,796 |
| 2021 | 61,600 | 5.45 | 3,166 | 6,333 |

For example, a **self-employed person** earning $61,600 or more will pay **$537 more this year** (as compared to last year's increase of $298), for a total of **$6,333**. Or, looked at another way, an employer with ten employees earning $61,600 or more will pay a total of $31,660 of CPP premiums in 2021 (an increase of $2,680 from 2020 contributions).

The maximum pensionable earnings are based on the **average weekly wages** and salaries in Canada for the 12-month period as of June 30. Due to the **disproportionately large job losses** of **lower income earners** resulting from the pandemic in the first half of 2020, the average weekly **wage** for this period is much **higher** than would be **typical**. While the increase from 2019 to 2020 was only $1,300, it increased by $2,900 in 2021 to $61,600.

In addition, the CPP contribution rate has also increased to 5.45%, up from 5.25% in 2020, and 5.10% in 2019. While these increases were planned as part of a seven-year gradual enhancement to the plan which commenced in 2019, they nonetheless represent an increase to the cost of CPP.

***ACTION ITEM: Budget for higher CPP costs in 2021.***

## Canada Emergency Wage Subsidy: Public Listing of Applicants

On **December 21, 2020,** CRA launched the **Canada Emergency Wage Subsidy** (CEWS) **Employer Search**, which allows users to **search a listing** of 340,000 CEWS applicants. The results, which are updated daily, **display the legal name, operating/trade name, or business number** of corporations (other types of entities are not listed) that have been **approved** for the CEWS. It does not include the amount received or the periods for which CEWS was received. The search database can be found at https://apps.cra-arc.gc.ca/ebci/hacc/cews/srch.

***ACTION ITEM: Before applying for the CEWS, ensure that you fully consider the implications of being included on this publicly searchable database.***

## Canada Emergency Wage Subsidy: More COVID-19 Support

The **Canada Emergency Rent Subsidy (CERS)** provides a federal subsidization of expenses associated with both commercial **rental payments** and **property ownership**. The program commenced on **September 27, 2020** and is scheduled to **continue until June 2021.**

The CERS program **parallels** the **Canada Emergency Wage Subsidy** (CEWS) program in that it is largely based on the same **revenue decline calculations** and related elections. Also, the periods covered by each CERS application are four-weeks in length, and have the same beginning and ending dates as CEWS.

The CERS program has two components: the **base CERS** and the **lockdown support** (LS).



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**Base CERS**
Broadly, the base CERS subsidizes eligible expenses **based on** the applicant's **revenue decline** as compared to pre-pandemic earnings. The base CERS provides a **subsidy** of **up to 65%** of applicable **expenses**, until March 13, 2021. Details on support beyond this date have not yet been provided.

**Lockdown support (LS)**
The LS provides an **additional 25% subsidy** for qualifying entities that are subject to a **lockdown** and must shut their doors or **significantly restrict their activitie**s under a **public health order** (lasting at least one week) in response to COVID-19. The LS does not vary based on the revenue decline; however, the organization must be eligible for some base CERS, effectively requiring at least a small revenue decline. It must also be 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.

For **example**, the government notes that the LS would generally be **available** where a **restaurant,** that previously earned at least 25% of its revenues from indoor dining, **shifted** to **take-out operations** due to their indoor dining being ordered to close.

An entity would **not generally be eligible** where, for example, it:

- is required to reduce their business hours, such as restrictions requiring a bar to shut down by 10:00 pm;
- must modify operations due to physical distancing rules, such as restaurants that must limit patrons to six persons per table; and
- is suffering due to travel restrictions, such as a bed and breakfast that has a decrease in customers but can continue to operate.

If an entity had to **cease activities** for only **part of a qualifying period**, the **LS is pro-rated** for the number of days for which the relevant location was affected.

**Eligible expenses**
Eligible expenses must be paid under agreements in writing entered into before October 9, 2020 (and continuations of those agreements) and must relate to real property located in Canada.

*Commercial rent*
**Arm's-length commercial rent** (e.g. rent paid to an unrelated corporation or individual), including amounts **paid or payable** under a net lease, are eligible.

Non-arm's-length commercial rent (e.g. rent paid to a controlling shareholder or parent) is not an eligible expense. Sales taxes, damages, and interest or penalties on unpaid amounts are not eligible either.

Tenants must **reduce eligible expenses** by any **rent received** or receivable from **arm's length** tenants (such as in sub-lease arrangements).

*Property ownership expenses*
Some **property owners** may claim CERS in respect of certain expenses related to their properties. The expenses include **mortgage interest** (subject to limitations), **property insurance**, and **property tax**. However, where a property is **primarily used to earn rental income**, directly or indirectly, **from** one or more **arm's-length entities**, **no expenses** related to that property are eligible.

Owners must **reduce eligible expenses** by any **rent received** or receivable from **arm's length** tenants.

*Limits*
For the **base CERS**, expenses for each qualifying four-week period are capped at **$75,000 per location**. A **total overall limit of $300,000** in eligible expense claims must be **shared between all affiliated entities**. For the **LS**, expenses for each qualifying period are capped at **$75,000 per location**, but **no overall cap** applies.

While the definition of an affiliated person can be complex, the analysis generally starts by **identifying entities in which a married or common-law couple**, either together or individually, **have a controlling interest**. Persons can be affiliated with individuals, corporations, partnerships and trusts. For example, consider Mr. and Mrs. A who each own and control their own corporations, Aco and Bco respectively. Aco and Bco would be affiliated even though Mr. A does not have any control or ownership of his spouse's corporation, Bco.

**Application and Administration**
Prior to applying, all applicants must **have a business number** and will need to **create a CERS account** (ZA number) which can be done through CRA's online portals. Business owners and/or senior employees must **complete the RC665 Attestation** prior to a representative filing the application for the subsidy.

The **deadline** for application is **180 days after** the end of the **qualifying period**. The rules authorize CRA to **publish the name** of any CERS applicant.

This is reiterated and included on the **RC665 Attestation form**.

Finally, it is important to note that **CERS is taxable** and is deemed to be received on the last day of the claim period, the same as for CEWS.

***ACTION ITEM: Prior to applying for CERS, it is important to determine monthly revenues, which revenue calculation elections are best, which parties you are affiliated with, and to whom the payments are being made.***

## Employees Working from Home During COVID-19: Personal Tax Deductions

Due to the **COVID-19** pandemic, many employees **worked from home during** a portion of **2020**. On December 15, 2020, CRA released **guidance** on **two new options** available for employees claiming expenses related to working from home on their personal tax return.

While this will clearly impact an employee's personal tax filing, it should also be considered by employers. A key question employers need to answer is whether they should **provide an employer certification** in respect of these employees. If so, they should consider what certification should be issued, and how they should be completed in an efficient, correct, and complete manner.

To help address these issues, we must understand the claims that employees can make.

**Temporary flat rate method – no employer certification required**
Employees can **claim $2/day**, to a **maximum of $400**, for days **worked from home** either full or part-time. This is available if:

- the employee worked from home more than 50% of the time for a period of at least four consecutive weeks in 2020 due to the COVID-19 pandemic;
- the employee is not claiming any other employment expenses; and
- the employer did not reimburse all of the employee's home office expenses.

**Detailed method – employer certification required**
As an alternative to the above, eligible employees may also use a **detailed method** to claim **reasonable amounts** paid for **expenses** incurred **related** to **working from home**.

This is a **more complex** option which requires that the employee retain **detailed support** (receipts and invoices) for the expenses, as well as obtain an **employer certification**. CRA allows for a **simpler certification** (T2200S Declaration of Conditions of Employment for Working at Home Due to COVID-19) if there are **no other employment expenses** being claimed, otherwise, the more extensive T2200 (Declaration of Conditions of Employment) must be obtained.

For expenses related to working from home to be **deductible** under this method, **one** of the **following** has to be **met**:

- the **home** was where the **individual mainly** (more than 50% of the time) **did their work** for a period of at least **four consecutive weeks**; **or**
- the individual used the space **exclusively** to **earn income, and** used it on a **regular and ongoing** basis for **meeting clients, customers or other people** in respect of the employment.

If one of these tests are **met**, even for a **portion of the year**, a **reasonable claim** can be made. Such eligible expenses include amounts paid for **rent**, **utilities**, **internet access fees** and **office supplies**.

**Issues for employers**
While **no certification** is required for an employee to claim the **temporary flat rate** method, a **certification** (T2200S or T2200) **is required** for those using the detailed method.

*T2200*
The T2200 is the **existing** and **extensive form** required if an employee is claiming **expenses beyond** those simply related to **working from home**.

This document requires the employer to answer **multiple detailed questions**, many of which require **additional information**.

*T2200S*
The **T2200S** is a **much simpler** form as compared to the historical T2200. There are **three simple questions** the employer will need to answer on the form for each employee:

- Did this employee work from home due to COVID-19?
- Did you or will you reimburse this employee for any of their home office expenses? The amount of any reimbursement or allowance is not required to be included on the T2200S.
- Was the amount included on this employee's T4 slip?

The form also requires the employer to certify "that this employee worked from home in 2020 due to COVID-19, and was required to pay some or all their (sic) own home office expenses used directly in their work while carrying out their duties of employment during that period."

***ACTION ITEM: Consider whether you will provide employees with a T2200, T2200S, or no certification.***

## Canada Emergency Business Account: Program Expanded

The Canada Emergency Business Account (CEBA) program is intended to **support businesses** incurring non-deferrable expenses by providing partially forgivable **interest-free loans**. Originally, applicants could receive a loan of up to $40,000, with 25% of it being forgivable if the other 75% was repaid by December 31, 2022. On December 4, 2020, CEBA loans for eligible businesses **increased to $60,000**.

Those who previously received a CEBA loan of up to $40,000, may now apply for the **$20,000 expansion**. New applicants can **apply for the full $60,000** CEBA loan provided they meet the previous eligibility criteria under one of the two possible application streams: they must have had at least $20,000 in payroll in 2019, or at least $40,000 in eligible non-deferrable expenses in 2020. Applications must be submitted by June 30, 2021, and a new loan agreement and attestation must be signed.

Prior to applying for the additional amount, there are four major issues that must be considered:

- an assertion that the business has been negatively affected is required;
- the new loan agreement may change the required use of funds;
- there are changes to the way the debt forgiveness is calculated; and
- the forgivable portion of the loan is taxable when received.

**Negatively affected by COVID-19**

Business owners must **attest** that COVID-19 has **negatively impacted** the business and that it:

- is facing ongoing financial hardship (including, for example, a continued decline in revenue or cash reserves, or an increase in operating costs);
- intends to continue to operate; and
- has made all reasonable efforts to reduce its costs and to otherwise adapt.

**Use of the funds**

An **amended agreement** which certifies that **all expenditures** under the program are **"eligible non-deferrable expenses"** is required to be signed. Some earlier agreements may not have had such a restriction; this provision **could effectively change the original agreement**. Therefore, signing the amended agreement may put certain applicants **offside** if they had not spent the funds on those eligible non-deferrable expenditures initially. When the program was originally launched, only the payroll stream was available, and the term "eligible non-deferrable expenses" was not specifically used to define what amounts could be spent on.

**Debt forgiveness**

If the outstanding principal, other than the amount of potential debt forgiveness, is **repaid by December 31, 2022**, the remaining principal amount will be forgiven, provided that no default under the loan agreement has occurred. If the full non-forgivable portion is **not repaid** by December 31, 2022, **no** portion of the **debt will be forgiven**.

Both the original and additional **loans are combined**. If the total is **up to $40,000**, 25% is forgiven if the applicant pays back the other 75% by December 31, 2022. If the total is above $40,000, **repaying $30,000**, **plus 50%** of the **portion exceeding $40,000** by **December 31, 2022**, will result in **the remainder being forgiven**. If the applicant **already repaid** the original $40,000 loan, claimed forgiveness and then borrowed the additional $20,000, the remainder will be forgiven if they repaid **50% of the loan**.

**Timing of Taxation**

In two recent Technical Interpretations, CRA reiterated its position that the forgivable portion of the loan is taxable in the **year in which the borrowed amount is received**, regardless of whether all conditions have been met to allow forgiveness. This applies to both the original version of CEBA and the additional $20,000.

In some cases, an **election** may be made to **defer the income** inclusion from the year of receipt, to the following year. This income will be offset by the related expenditure.

***ACTION ITEM: Before applying for the additional CEBA loan, ensure that you have, and will be able to, comply with the new loan agreement and attestation.***

## Underground Economy: Areas of Focus

CRA recently discussed one of their **top priorities**; **identifying** those involved in the **underground economy** and ensuring that they are satisfying their tax obligations.

They specifically noted that they are using **data analytics** to predict **industry sectors** where **tax evasion** or non-compliance is **more likely. Further, they will send unnamed person requests for information** (to sources such as cheque-cashing companies), and also request information from suppliers (e.g. construction and liquor suppliers), to determine if income has been appropriately reported.

They are also trying to **reduce** the **social acceptability** of participating in the **underground economy**, focusing on the **demand** side to **reduce consumer willingness** to accept services such as **cash-only home renovations**. From an enforcement perspective, there are now **35 underground economy specialist teams** across Canada who have **advanced training** to identify **unreported income**.

**Which sectors have the highest rates of underground economy activities?**
An October 23, 2020 **Statistics Canada** release (**Residential construction** remained the **top contributor** to underground activity in 2018) reported the following related to the underground economy in **2017 to 2018**:

- **Four industries** accounted for **over half** of the underground economy: **residential construction** (26.2%); **retail** trade (12.3%); **finance, insurance, real estate, rental and leasing and holding companies** (10.3%); and **accommodation and food services** (9.1%). CRA's stated that they will focus on these sectors.
- Undeclared **wages and tips** were the **largest** share of **unreported income** (42.4%). Business owners, both **unincorporated** (28.6%) and **incorporated** (26.1%), accounted for most of the remainder.
- Household **final consumption** expenditures account for 66% of the underground economy. Significant sub-categories include **alcohol, tobacco and cannabis** (29.2%); **food, beverages and accommodation** services (20.6%); and **housing, water, electricity, gas** and other fuels (17.2%).
- **Underground economy** activity as a percentage of GDP is **highest** in **British Columbia** (3.7%) and **lowest** in **Nunavut** (0.5%).

***ACTION ITEM: If you operate in one of the sectors identified as being at higher risk of underground economy activity, do not be surprised if your operations attract more CRA attention.***

## Online Activity: CRA Focus on Video Game Streamers and Online Influencers

It has recently been reported that **CRA** is **reviewing social media accounts** to see whether **video game streamers'** and **online influencers'** income is **consistent** with paid **endorsements** and **other signs of income** online. Video game streamers earn money by playing video games online. Influencers are those who have built a reputation online for their expertise in a certain area. CRA has stated they have conducted some initial research and will finalize a broader enforcement plan. They also specifically noted that they have been looking at influencers with **incomes in excess of $500,000**.

An individual from CRA also specifically noted that the content that individuals post on their **Facebook** pages and **Twitter** feeds provides a lot of surprising open-source intelligence. As well, they noted that many video game streamers have millions of followers on **YouTube** or **Twitch**. As an example, an online video game commentator and musician with a YouTube channel earned US$17 million in 2018 (according to a Google spokesperson).

***ACTION ITEM: Be aware of your online activity as it can inform CRA of compliance activity.***



For any questions contact Buckberger Baerg & Partners at (306) 657-8999