

Kurt Rosentreter Tax Planning Tips Q1 2021



Tax Tickler... some points to consider ...

- In 2021, four special payments to recipients of the Canada Child Benefit, totaling up to \$1,200 per child under age six, will be made.
- The Canada Emergency Wage Subsidy has been extended to June 2021. Details are still pending for periods after March 2021.
- CRA has required Coinsquare, a cryptocurrency trading platform, to provide the identity of every client (which is over 200,000 accounts) to help address perceived risks of non-compliance.
- For the first 9 months in 2020, 6,045 individuals renounced their U.S. citizenship representing a significant increase as compared to only 1,811 for the same period in 2019. 2020 surpassed the highest previous year on record of 5,411 in 2016.

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See Kurt's Comments Inside!

Kurt's Comments:

Budget for higher CPP costs in 2021.



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).

So, why the increase?

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.

Canada Emergency Rent 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).

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.

Kurt's Comments

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.

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 activities 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.



Canada Emergency Rent Subsidy (Con't)

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.



Canada Emergency Rent Subsidy (Con't)

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.

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.

Kurt's Comments:

Consider whether you will provide employees with a T2200, T2200S, or no certification



Employees Working From Home During COVID-19 (Con't)

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.



Employees Working From Home During COVID-19 (Con't)

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?

Employees Working From Home During COVID-19 (Con't)



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.”

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 March 31, 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.

Canada Emergency Business Account: Program Expanded (Con't)

Kurt's Comments:

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



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.

Canada Emergency Business Account: Program Expanded (Con't)

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.

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.

Kurt's Comments

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.

Underground Economy: Areas of Focus (Con't)

- 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%).

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).

Kurt's Comments:

Be aware of your online activity as it can inform CRA of compliance activity.

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