

## **Carswell Payroll Source Alert – January 2019 Issue**

### **Feds Propose Changes to Salary Overpayment Rules**

The federal Finance Department is proposing to change the rules for how employees repay certain salary overpayments.

In January, it released draft legislative amendments that would allow employees whose employer overpaid them salary, wages, or other remuneration due to a system, administrative, or clerical error to repay their employer the net amount of the overpayment, rather than the gross amount, if the overpayment and the employee's repayment occur in different calendar years.

The proposals would amend the *Canada Pension Plan*, *Employment Insurance Act*, and *Income Tax Act*.

The current rules require employees in this situation to refund their employer the full amount of the overpayment, including amounts the employer deducted and remitted to the Canada Revenue Agency (CRA) for Canada Pension Plan (CPP) contributions, Employment Insurance (EI) premiums and income tax deductions. It is up to the employee to recover the amount of the CPP contributions, EI premiums, and income tax deductions from the CRA.

“This may put an unfair burden on affected employees and may require them to make repayments that are larger than the amount they received from their employer, creating uncertainty and potential financial hardship,” the Finance Department said in a news release.

Under the proposed changes, which would apply to overpayments made after 2015, the CRA would directly refund the employer for CPP, EI, and income tax withheld on an overpayment that resulted from a system, administrative, or clerical error. Employers would have to apply for the refund. Since CPP and EI are deducted up to annual maximum amount, the amount of the refund may not be the same as the amount originally deducted.

The new rules would only apply if the employee has repaid the employer, or made arrangements to repay, within three years after the year in which the overpayment occurred, the employer has not previously issued a T4 correcting for the overpayment, and the employer has elected to have the new rules apply. Otherwise, the employer and the employee would have to follow the current rules.

In situations where an overpayment error is discovered in the same year that the employer made the overpayment, the employee would continue to be required to repay the net amount (gross pay, less source deductions for CPP, EI and income tax) of the overpayment.

The Finance Department said that although the proposals are not yet law, employers will be allowed to immediately apply them for income tax and EI deductions when dealing with overpayments resulting from a system, administrative, or clerical error. This does not apply for CPP, however. Since the CPP is managed by the federal government in conjunction with the provinces and territories, they must consent to the proposed changes before they can be implemented.

It also said the CRA would provide additional information on how it plans to implement the proposals.

The department is asking for feedback on the proposals until February 15, 2019. For more information on the draft changes, see <https://www.canada.ca/en/department-finance/news/2019/01/department-of-finance-canada-consulting-canadians-on-draft-tax-legislation-regarding-salary-overpayments-including-those-made-through-phoenix-pays.html>.

The Quebec Finance Ministry said it would make similar changes to align its salary overpayment rules with the federal proposals.

We will continue to monitor this story and will report of further developments in upcoming releases.

### **First Quarter Prescribed Interest Rates Set**

The prescribed rate for taxable benefits to employees and shareholders from interest-free and low-interest loans will be 2% from January 1, 2019 to March 31, 2019. The rate is unchanged from the previous quarter. The interest rate for unpaid source deductions, overdue taxes, and insufficient instalments is 6% for the first quarter.

### **2019 Automobile Rates Announced**

The federal Finance Department has announced the prescribed rates that apply for automobile-related taxable benefits and allowances for 2019.

The general prescribed rate used to calculate the taxable benefit for an employee's personal use of an employer-provided automobile is 28 cents per kilometre. The rate for employees whose principal job is to sell or lease automobiles is 25 cents per kilometre. The rates are two cents higher than they were last year.

The deduction limits for tax-exempt allowances employers pay to employees who use their personal vehicle for business purposes are 58 cents per kilometre for the first 5,000 kilometres and 52 cents per kilometre for each additional kilometre. For the Yukon, Northwest Territories, and Nunavut, the limit is 62 cents for the first 5,000 kilometres driven and 56 cents for each additional kilometre. The rates are three cents higher than they were last year.

## **2019 Ceilings for Housing Benefits Announced**

The Canada Revenue Agency has announced the 2019 ceilings for housing benefits that employers provide to employees in prescribed zones without a developed rental market. The changes reflect an increase in the shelter portion of the consumer price index. For 2019, employers should use the following allowable ceiling amounts to determine the maximum value of housing benefits for employees in prescribed zones without a developed rental market:

For common shelter:	\$198/month (\$195 in 2018)
For an apartment or duplex:	\$534/month for rent only (\$525 in 2018)
	\$260/month for utilities only (\$255 in 2018)
	\$794/month for rent and utilities (\$780 in 2018)
For a house or trailer:	\$893/month for rent only (\$878 in 2018)
	\$395/month for utilities only (\$388 in 2018)
	\$1,289/month for rent and utilities (\$1,266 in 2018)

For a listing of communities that qualify as prescribed zones, see <https://www.canada.ca/en/revenue-agency/services/tax/individuals/topics/about-your-tax-return/tax-return/completing-a-tax-return/deductions-credits-expenses/line-255-northern-residents-deductions/line-255-places-located-prescribed-zones.html>.

## **WorkSafeBC Considering Eliminating Quarterly Reporting**

WorkSafeBC is considering eliminating its quarterly reporting requirement for employers and replacing it with a system of equal instalment payments.

Currently, employers with annual assessments of \$1,500 or more must report their payroll and pay the assessments quarterly. Those with annual assessments under \$1,500 report and pay annually.

In place of quarterly reporting, employers would pay four equal instalments based on their estimated payroll. They could also sign up for automatic payments through their credit card or by debit. Employers would still have to report their actual payroll and make payment adjustments at the end of the year. They would also be required to revise their payroll estimate if they determine during the year that it will “vary significantly” from the estimate that they provided.

WorkSafeBC said the changes would “simplify reporting and payment requirements for employers and improve their experience with WorkSafeBC.”

## **WorkSafeBC Assigning Nine-digit Account Numbers**

WorkSafeBC has begun assigning nine-digit account numbers to employers who open new accounts with the workers’ compensation body. It says the new numbering system will enable its system to accommodate more employers. The change does not affect already-registered employers with six-digit account numbers.

## **Newfoundland and Labrador Family Violence Leave Provisions in Force**

New labour standards rules that allow eligible employees to take up to 10 days off work for family violence leave came into effect on January 1, 2019.

The leave was set out in Bill 32, *An Act to Amend the Labour Standards Act*, which received royal assent on December 5, 2018. It provides up to three paid days and seven unpaid days each year. Employees are not allowed to carry over any unused leave days to the next year.

To be eligible for the leave, employees must be employed by their employer for at least a continuous period of 30 days and they or a person for whom they are a parent or a caregiver must be directly or indirectly subjected to, a victim of, impacted by, or seriously affected by family violence or have witnessed it. Employees must use to the leave for the following reasons: seek and receive medical care, counseling or other services from a health professional; seek and receive services from a family violence victim's services organization; relocate; seek and receive legal services or assistance; and for other purposes prescribed in regulations under the *Labour Standards Act*.

Employees who want to take the leave must give their employer written notice of it as soon as possible before beginning it. Exceptions apply where an employee has a valid reason for not providing the notice. The employee's notice must include the length of the leave.

To calculate employees' pay for the three days of paid leave, employers must multiply the employees' hourly rate by the average number of hours they worked in the three weeks immediately before the leave.

When the leave is over, employers must reinstate employees with at least the same terms and conditions of employment. Employers are prohibited from dismissing or giving a notice of dismissal to an employee because the employee plans to take or has taken a leave.

Other amendments to the Act require employers to keep all information related to any labour standards leaves confidential, unless the employee gives consent for the information to be disclosed, the disclosure is required by law, or the employer or a person they employ needs to disclose the information to administer the leave.

## **Newfoundland and Labrador WHSCC Making Online Services Mandatory**

The province's workers' compensation board is making its online services mandatory for employers.

By the end of 2019, the Workplace Health, Safety and Compensation Commission says employers will be required to use all of its online services to do things such as submit annual returns, report injuries, request clearances, and view account information.

For information on signing up for online services, refer to the commission's website at [http://www.workplacenl.ca/employers/EMP\\_NewsForEmployers.whscc](http://www.workplacenl.ca/employers/EMP_NewsForEmployers.whscc).

### **Nova Scotia Minimum Wage Going Up**

The minimum wage for experienced workers in Nova Scotia will rise from \$11.00 an hour to \$11.55 on April 1, 2019, Labour and Advanced Education Minister Labi Kousoulis recently announced.

He also said the government would implement a recommendation from the province's Minimum Wage Review Committee to raise the minimum wage rate by approximately \$0.55 a year in 2019, 2020, and 2021 to more accurately tie the rate to Statistics Canada's Low Income Cut Off (LICO) threshold. In previous years, the government has used a 40-hour average workweek for full-time employees to set minimum wage in line with the LICO; however, the committee said that Statistics Canada data shows that the average workweek for full-time workers is about 37 hours.

With the change, the rate is expected to increase to \$12.10 on April 1, 2020 and to \$12.65 on April 1, 2021. The rate increases include a \$0.30 adjustment for the LICO plus projected inflation of \$0.25. Beginning April 1, 2022, the rate would remain tied to the LICO by adjusting it each year based on the projected annual national inflation rate. The rate for inexperienced workers (i.e., those with fewer than three months of service) will remain \$0.50 cents less than the experienced worker rate. As a result, it will rise from \$10.50 an hour to \$11.05 on April 1, 2019.

We have updated Table 17.1, Minimum Wage, to include a note about the coming minimum wage rate changes.

### **New P.E.I. Employment Standards Rules in Effect**

Effective December 29, 2018, the provincial government implemented new rules that expand a number of leaves allowed under employment standards law.

The new requirements include the following changes:

- The period in which employees may begin maternity leave has been extended from 11 weeks to 13 weeks immediately before the estimated date of birth.
- The length of parental leave has increased from 35 weeks to 62 weeks.
- The length of adoption leave has increased from 52 weeks to 62 weeks.
- The total amount of maternity/parental/adoption leave that one or two employees could take for the same child has increased from 52 weeks to 78 weeks.
- The length of compassionate care leave has risen from eight weeks to 28 weeks.
- The eligibility period for sick leave has decreased from six months of continuous employment to three months.

The changes stem from Bill 32, *An Act to Amend the Employment Standards Act (No. 4)*, which received royal assent on December 5, 2018.

## Quebec Minimum Wage Rising

The province's general minimum wage rate will rise from \$12.00 an hour to \$12.50 on May 1, 2019, Quebec Labour Minister Jean Boulet recently announced.

With the increase, the general minimum wage rate will be half of the province's average hourly wage rate, which was \$24.92 in 2018.

Other minimum wage rates in Quebec will also go up on May 1:

	<b>Current Rate</b>	<b>Rate as of May 1, 2019</b>
Employees who receive tips	\$9.80/hour	\$10.05/hour
Raspberry pickers	\$3.56/kilogram	\$3.71/kilogram
Strawberry pickers	\$0.95/kilogram	\$0.99/kilogram

We have updated Table 17.1, Minimum Wages, to include a note about the rate changes.

## Yukon ESB Recommends Minimum Wage Hikes

Yukon's Employment Standards Board (ESB) has recommended that the government gradually raise the territory's minimum wage rate to \$15.12 an hour over the next two years.

In a report to the government, the ESB proposed that the rate rise from \$11.51 an hour to \$12.60 on April 1, 2019, \$13.80 on April 1, 2020, and \$15.12 on April 1, 2021. After 2021 and until the next review, the report recommended that the minimum wage go back to being adjusted annually based on increases in the consumer price index (CPI) in Yukon.

The recommended rate hikes are based on yearly increases of about \$1.00 (\$0.90 in 2019, \$1.00 in 2020, and \$1.10 in 2021) plus projected annual increases of about 1.5% in the CPI. If the actual CPI is different, the report said the proposed rates would need to be adjusted.

The report said the rate increases would help low-income earners and bring Yukon's minimum wage closer to the rates in nearby jurisdictions. It noted that the Yukon has the lowest minimum wage of the three territories and that it is well below the hourly rates in neighbouring British Columbia (\$12.65 rising to \$13.85 on June 1, 2019) and Alberta (\$15).

“(I)f the Yukon minimum wage continues to fall further behind the minimum wage in Alberta, BC and NWT, it may contribute to the difficulty in hiring in Yukon,” said the report.

The report acknowledged the proposed increases would not bring the minimum wage rate up to the level of a “living wage” for the territory. A living wage is an hourly pay rate that is high enough to cover basic living expenses for a family of four in a particular

community. For Whitehorse, the territorial capital, the Yukon Anti-Poverty Coalition said the living wage was \$18.57 in 2018. However, the report said minimum wage increases were not the only way to achieve a living wage, pointing to tax measures and other supports.

The Yukon government, which requested that the board carry out a study of the minimum wage, said it would review the report before deciding on any minimum wage changes. We will continue to monitor this story and will report on further developments in upcoming releases.

### **Payroll Q & A**

Question: After distributing T4s to our employees and filing our T4 return, I was informed that some employee home addresses were incorrect on the forms. The employees had moved, but failed to notify us. We distribute our T4s electronically, so the employees in question did receive their forms. Do I need to file amended forms with the Canada Revenue Agency (CRA) to correct the addresses?

Answer: No, the CRA does not require employers to file amended T4s if they are only changing an employee's address. If employers need to make changes to other information reported on the forms, they must file amended T4s. For more information on making changes to year end forms after filing them with the CRA or Revenu Québec, please see 9.2.4, Correcting and Replacing Forms.