

No July 1 Income Tax Changes Announced

The Canada Revenue Agency says it is not issuing July updates for its *Payroll Deductions Formulas* (T4127), *Payroll Deductions Tables* (T4032), or *Payroll Deductions Supplementary Tables* (T4008) this year since no governments have announced July 1 changes to source deduction rates.

Third Quarter Prescribed Interest Rates Set

The prescribed rate for taxable benefits to employees and shareholders from interest-free and low-interest loans is 2% from July 1, 2019 to September 30, 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 third quarter.

CRA Updates Audit Policy

The Canada Revenue Agency (CRA) has updated its policy on *Obtaining Information for Audit Purposes*.

The agency said it made changes to the document in response to recent court decisions and issues raised by taxpayers.

In a ruling in April, the Federal Court of Appeal (FCA) upheld a Federal Court decision stating that the minister of National Revenue does not have the authority under the federal *Income Tax Act's* general audit and inspection rule to require employees of a corporation to take part in interviews and provide oral answers to questions from CRA auditors.

The issue arose during an audit of Cameco Corporation to determine if it complied with transfer pricing rules under s.247 of the *Income Tax Act* during its 2010, 2011, and 2012 taxation years. The CRA asked Cameco employees to attend interviews and to orally answer questions it said were relevant to the audit. Cameco refused the request, but said it would answer questions in writing. The CRA went to the Federal Court to obtain a compliance order, but the court dismissed the application.

The CRA said it would not appeal the FCA's ruling to the Supreme Court. Instead, it said it would continue to request interviews where necessary and that it expects that most taxpayers will comply with its requests.

It noted that in the FCA's ruling, the court stated that taxpayers should fully cooperate with reasonable requests made during audits and that the CRA is able to make inferences when taxpayers do not provide answers and to make assumptions and assess taxpayers on that basis.

The policy update clarifies when and why the CRA may request information from taxpayers

during an audit.

More information on the policy is available at <https://www.canada.ca/en/revenue-agency/services/tax/technical-information/acquiring-information-taxpayers-registrants-third-parties.html>.

Alberta Employment Standards Changes to take Effect Sept. 1

Recently passed amendments to Alberta's *Employment Standards Code* affecting overtime banking and statutory holiday pay will take effect September 1, 2019.

The amendments were included in Bill 2, *An Act to Make Alberta Open for Business*, which received royal assent on July 18, 2019. They will bring about the following changes:

- **Time off in lieu of overtime pay:** Effective September 1, 2019, employers will be allowed to calculate time off in lieu of overtime pay at employees' regular wage rate rather than at 1.5 times their regular rate. Once the new standard is implemented, overtime hours stored in a time bank that have not been provided, taken, or paid before September 1, 2019, will have to be provided at 1.5 hours off for each hour of overtime worked unless an overtime agreement or a collective agreement provides for a higher rate.

In addition to the legislative amendments, the government has announced that it will revise regulations under the Code to repeal provisions for flexible averaging agreements, saying the amended overtime banking changes will eliminate the need for the agreements.

- **Qualifying for statutory holiday pay:** Effective September 1, 2019, employees will have to work for their employer for at least 30 work days in the last 12 months before a statutory holiday in order to qualify for statutory holiday pay. Currently, all employees covered by the Code's statutory holiday standards qualify for holiday pay unless they do not work on the holiday when required or scheduled to do so or they are absent without their employer's consent on their last regular work day before the holiday or their first regular work day after it. Under the amendments, employees will continue to be ineligible for statutory holiday pay if they do not meet these requirements.
- **Regular/irregular work day distinctions for statutory holiday pay:** Beginning September 1, 2019, the Code will return to previous rules that applied before January 1, 2018 for distinguishing between regular and irregular work days for determining statutory holiday pay. The change will mean that if a statutory holiday occurs on a day that is not a normal work day for employees and they do not work that day, their employer will not have to pay them for the holiday. If they do work, they will be entitled to be paid at least 1.5 times their regular wage rate for the hours worked. Currently, if employees do not work on a holiday, their employer must pay them at least their average daily wage for the day.

For statutory holidays that occur on a normal work day for employees, the current payment rules will continue to apply. Employees eligible for holiday pay who work on a holiday will be entitled to either 1.5 times their regular wage rate for hours worked, plus their average daily wage, or their regular wage rate for the hours worked, plus a day off

with pay (a normal work day) no later than their next annual vacation, paid at their average daily wage. If employees do not work on the holiday, they will be entitled to their average daily wage for the day. Average daily wage will continue to be calculated as 5% of an employee's wages, statutory holiday pay, and vacation pay earned in the four weeks right before the holiday.

The compensation rules in effect prior to September 1, 2019 will apply to employees who worked on a statutory holiday that occurred before that date even if their employer pays them the compensation after September 1, 2019.

The statutory holiday amendments also include new requirements for determining whether a holiday occurs on a regular work day for employees who do not work a regular schedule. The holiday will be considered a normal work day for employees if they worked on the same day of the week that the holiday occurs in at least five of the nine weeks before the work week with the holiday.

New B.C. Employment Standards Rules in Force

The British Columbia government has implemented some recently passed amendments to the province's employment standards rules.

The amendments were included in Bill 8, the *Employment Standards Amendment Act, 2019*, which received royal assent on May 30, 2019. As we reported in the June/July issue of the *Report*, some of the amendments took effect on royal assent, while others will come into force by regulation.

The following amendments came into effect on royal assent:

- Employees are allowed to take time off work, without pay, to provide care or support to a critically ill or injured family member. The period of leave is up to 36 weeks for family members under 19 years of age at the start of the leave and up to 16 weeks for those 19 and older.
- Employees are allowed to take time off work, without pay, if they, their child (including an adult child dependent on them because of illness, disability, or another reason), or another person prescribed in regulations suffers domestic or sexual violence. The period of leave is up to 10 days (taken consecutively or intermittently) and up to 15 weeks. Employees are allowed to take the leave for specific purposes related to the violence, including seeking medical care; obtaining victim services; obtaining psychological or other professional counselling; temporarily or permanently relocating; and seeking legal or law enforcement assistance.
- Employers who terminate an employee's employment after the employee gives notice to quit must pay the employee an amount equal to the wages the employee would have earned for working the rest of the notice period or to the amount that the employer is liable to pay on termination, whichever is less. The provision only applies to employees with more than three consecutive months of service with their employer.
- New provisions specify the types of credit obligations which employers may choose to honour under an employee's written assignment of wages. They include wage advances that an employer pays to employees (including vacation pay), outstanding balances for goods or services that employees buy from their employer, and outstanding balances

relating to employees' use of their employer's real or personal property.

- Employers are prohibited from withholding tips or other gratuities from employees, deducting amounts from them, or requiring employees to turn them over to the employer. Exceptions apply if a provincial or federal law or a court authorizes or requires it. Exceptions also apply for tip pooling, where an employer collects tips from employees and redistributes them among some or all of its employees. Employers are not allowed to share in the pooled tips unless they perform the same work as the employees sharing the tips.
- Employers must retain payroll records for four years after the date they create them. The four-year retention period also applies to records related to averaging agreements, agreements to substitute statutory holidays, and agreements related to cleaning and maintaining special clothing.
- Collective agreements with provisions covering hours of work or overtime, statutory holidays, vacations, special clothing, and seniority retention, recall, termination or layoff must, when taken together, meet or exceed the minimum requirements in the *Employment Standards Act*. Otherwise, the applicable provisions in the Act apply.

Among the amendments not yet in force are the following changes:

- The minimum age for employment will be raised from 12 years to 16 years, although 14 and 15 years old will be allowed to do "light work" if their parent or guardian consents, or other work if the director of Employment Standards approves it. Employers will need the director's permission to hire someone under 14 years of age.
- Temporary help agencies will have to be licensed and employers will be prohibited from using agencies that are not. If they do, Employment Standards will consider them to be the employer of agency employees who did work for them.
- A requirement that employees complete a self-help kit to try to resolve disputes with their employer before filing an Employment Standards complaint will be eliminated.
- The period for employees to recover unpaid wages from employers will increase from six months to 12 months, with the possibility of extending the period to 24 months in certain situations, such as wilful or severe contraventions of the Act.

Please contact our payroll hotline for updates on when the outstanding amendments will take effect. Call the hotline at 416-609-0152 (Toronto) or 1-800-661-6828 (toll free) or send questions via e-mail to Carswell.PayrollHotline@thomsonreuters.com.

Reminder: B.C. Minimum Wage Rates Rising June 1st

Just a reminder...on June 1, 2019, the British Columbia government raised the general minimum wage rate from \$12.65 an hour to \$13.85.

The increase is part of the government's plan to gradually raise B.C.'s minimum wage between 2018 and 2021 until it reaches \$15.20 an hour. The rate is scheduled to rise to \$14.60 on June 1, 2020, and then to \$15.20 on June 1, 2021.

The government also increased other minimum wage rates to the following amounts on June 1, 2019:

- liquor servers: \$12.70/hour
- live-in camp leaders: \$110.87/day or part day
- resident caretakers in apartment building with 9 to 60 suites: \$831.45/month plus \$33.32 per suite
- resident caretakers in apartment building with more than 60 suites: \$2,832.11/month

The government has previously announced that it will gradually eliminate the liquor server rate by June 1, 2021, when liquor servers will be entitled to receive the general minimum wage rate.

Reminder: Manitoba RST Going Down July 1st

Just a reminder... The Manitoba government lowered the province's retail sales tax rate from 8% to 7%, on July 1, 2019.

N.W.T. Government Proposes Employment Standards Changes

The Northwest Territories government is proposing to expand employment leaves allowed under its *Employment Standards Act* and to specify occupations in which young people are prohibited from working.

The changes are included in Bill 57, *An Act to Amend the Employment Standards Act*, which Minister of Education, Culture and Employment Caroline Cochrane tabled in the legislature on June 4, 2019. Among the proposals in the bill are the following amendments:

- **Parental Leave:** The maximum period of parental leave would increase from 37 weeks to 61 weeks. If employees shared parental leave, the maximum period of leave for the same birth or adoption would be 69 weeks. The period within which employees would have to complete parental leave would be extended from one year after the birth or adoption to 78 weeks afterwards if one employee is taking the leave and 86 weeks if more than one employee takes the leave for the same birth or adoption. Combined pregnancy and parental leave for employees sharing leave would be a maximum of 86 weeks.
- **Compassionate Care Leave:** The maximum period for compassionate care leave would increase from eight weeks to 27 weeks. The period within which employees would have to complete the leave would be extended from 26 weeks after it began to 52 weeks afterwards.
- **Family Caregiver Leave:** A new Family Caregiver Leave would allow eligible employees to take unpaid time off work to provide care or support to a critically ill family member. The period of leave would be up to 37 weeks if the family member was a child under 18 years of age and up to 17 weeks if the family member was an adult. Regulations under the Act would specify how long an employee would have to work for an employer to qualify for the leave. Employees would be allowed to take the leave in separate periods as long as each period lasted at least one week.
- **Family Violence Leave:** A new Family Violence Leave would allow eligible employees to take time off work for specific purposes if they or their child experiences family

violence. Employees could take the leave for the following purposes related to the violence: to seek medical care; to obtain services from a victim services organization; to obtain psychological or other professional counselling; to temporarily or permanently relocate; to seek legal or law enforcement assistance; and for other reasons that may be listed in regulations. The period of leave would be up to 10 days and up to 15 weeks. While the 15-week leave would be unpaid, employers would have to pay employees for the first five of the 10 days of leave. For the paid time off, employees would be entitled to the wages they would have earned had they not taken the time off. If their work hours or wages vary from day to day, the employees would be entitled to their daily wages based on an average of their daily wages for the four weeks that they worked right before taking the leave. Regulations could set out an alternative calculation for paying employees. Employees would not be entitled to more than their regular rate for the time off if a paid day of leave fell on a day or at a time when overtime pay would be payable to them. Employees would be allowed to take the 15-week leave in separate periods as long as each period lasted at least one week. Employers would be required to keep records related to the leave confidential unless the employee consented to disclosure or disclosure was necessary for an employee, consultant, or agent of the employer to do their job or was required by law.

- **Youth Employment:** The Act would specify which occupations would be prohibited for employees under 17 years of age. They would include: construction sites; production processes at pulp mills, saw mills, woodworking establishments, smelters, foundries, refineries or metal processing or fabricating operations; confined spaces; forestry or logging operations; operating powered mobile equipment, cranes or hoists; where they would be exposed to chemical or biological substances likely to endanger them; and power line construction or maintenance. Regulations could specify other occupations.

The bill would also add new definitions of “care” and “support” to the *Employment Standards Act* for compassionate care leave and family caregiver leave to clarify that care and support do not need to be medical care that would be provided by a medical professional, but could include psychological or emotional care or support.

The N.W.T. government says the amendments will better align the Act’s leave’s provisions with Employment Insurance benefits.

Nunavut Proposes to Raise Basic Personal Amount

The territorial government is proposing to raise the basic personal amount claimed on a *Nunavut Personal Tax Credits Return* (TD1NU) from \$13,618 to \$16,000, effective for 2019 and later tax years.

The proposal is included in Bill 26, *An Act to Amend the Income Tax Act*, which Finance Minister George Hickes tabled in the legislature on May 29, 2019. He said the change was needed to help “mitigate the impact of the federal carbon tax.”

Quebec Government Proposes to Decrease QPIP Rates

The Quebec government is proposing to lower premium rates for the Quebec Parental Insurance

Plan (Plan) for 2020.

In the June 12, 2019, *Quebec Gazette*, the government published draft regulations that would reduce the employee rate from 0.526% to 0.494% and lower the employer rate from 0.736% to 0.692% as of January 1, 2020.

The government has not yet announced the QPIP maximum insurable earnings for 2020.

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

Saskatchewan Minimum Wage Going Up in October

On October 1, 2019, the minimum wage rate in Saskatchewan will rise from \$11.06 an hour to \$11.32.

The Saskatchewan government adjusts the minimum wage rate each year on October 1 using an indexation formula based on percentage changes to both Saskatchewan's consumer price index and average hourly wage for the previous year.

Payroll Q & A

Question: Do minimum wage rules apply to employees on probation or only to those who have passed an employer's probationary period. For example, when we hire new employees, they must serve a six-month probationary period.

Answer: Each province/territory sets its own minimum wage under its employment/labour standards legislation. Federally regulated employers must abide by the minimum wage rules that apply in the jurisdiction(s) in which their employees work.

In all jurisdictions, minimum wage rules apply to all employees except for those specifically exempted. None of the jurisdictions exempt employees serving a probationary period from being paid at least the applicable current minimum wage rate. It is important to point out that Nova Scotia does have two separate minimum wage rates based on employee experience. The rules there allow employers to pay a prescribed lower minimum wage rate to inexperienced workers. "Inexperienced" employees are those who have not been employed by their current or other employer for a total of at least three months to do the work for which they were hired. No other jurisdiction makes this distinction.

For current minimum wage rates, please see Table 17.1, Minimum Wage Rates, in chapter 17, Minimum Wage.