Carswell Payroll Source Alert – August/September 2022 Issue

CEIC Announces 2023 EI Maximum Insurable Earnings and Premium Rates

The maximum insurable earnings for Employment Insurance (EI) premiums will increase from $60,300 to $61,500 in 2023, the Canada Employment Insurance Commission (CEIC) has announced.

On September 14, 2022, the CEIC released its *2023 Actuarial Report on the Employment Insurance Premium Rate*, setting out the maximum insurable earnings, as well as the premium rates for 2023. In the report, the CEIC announced the following rates and maximums for 2023:

For 2023	**Employees outside Quebec**	**Employees in Quebec**[1]
Maximum insurable earnings	$61,500	$61,500
Employee premium rate	1.63% (1.58% in 2022)	1.27% (1.20% in 2022)
Employer premium rate[2]	2.28% (2.21% in 2022)	1.78% (1.68% in 2022)
Maximum employee premium payment	$1,002.45	$781.05
Maximum employer premium payment	$1,403.43	$1,093.47

[1] The rate for Quebec differs because of the Quebec Parental Insurance Plan.
[2]Unless Service Canada has approved a reduced rate for the employer.

The 1.63% rate is the maximum increase allowed under the *Employment Insurance Act's* five-cent limit on annual rate changes. It is below the forecast 1.74% break-even rate. The break-even rate is the rate that would generate enough EI premium revenue during the next seven-year period to pay for the expected EI expenditures in that seven-year period and to eliminate the projected deficit/surplus that has built up in the EI operating account as of December 31 of the previous year.

The CEIC also announced the following 2023 EI premium rate reductions (per $100 of insurable earnings) for employers registered under the federal government's Premium Reduction Program:

- Category 1 plans: $0.25
- Category 2 plans: $0.39
- Category 3 plans: $0.39
- Category 4 plans: $0.42

The category refers to the group to which Employment and Social Development Canada (ESDC) assigns an employer, based on the type of wage-loss replacement plan the employer has set up. The CEIC announced the following employer multipliers apply in 2023 for employers with qualifying wage-loss replacement plans:

- Category 1 plans: x 1.249 the employee premium (1.206 for Quebec employees)
- Category 2 plans: x 1.160 the employee premium (1.092 for Quebec employees)
- Category 3 plans: x 1.163 the employee premium (1.096 for Quebec employees)
- Category 4 plans: x 1.140 the employee premium (1.066 for Quebec employees)

The CEIC says it will notify employers registered in the plan individually of their 2023 reduced rate as individual premium reductions may vary.

The ministers of Finance and ESDC may recommend a different EI premium rate than the one that the CEIC set if it is in the public interest to do so. The government has until September 30 to set a different rate.

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

Finance Department Proposes Changes to Standby Charge

In August, the federal Department of Finance announced proposed amendments to the standby charge provisions for automobile taxable benefits in the *Income Tax Act*.

The changes were part of a number of amendments to the Act and its regulations that the department put forward for public feedback on August 9, 2022. The deadline for commenting on the proposals is September 30, 2022. The department said the government would table legislation to implement the draft amendments in the coming months.

The department proposes to amend paragraph 6(1)(e) of the Act to require that employers include the standby charge in an employee's income if they make an automobile that they own or lease available for personal use to an employee or to person who does not deal at arm's length with the employee. The phrase "a person who does not deal at arm's length" would replace the current wording in the Act of "a person related to" the employee.

While the Act does not specifically define the term "arm's length," the categories used in s. 251 for determining an arm's length (and non-arm's length) relationship show that the term encompasses a wider range of relationships than just a person related to the employee (i.e., someone connected by a blood relationship, marriage or a common-law partnership or adoption.) In explanatory notes included with the proposals, the department said the proposed change would make paragraph 6(1)(e) more consistent with the wording it uses for other taxable benefit paragraphs in the Act.

Other amendments to paragraph 6(1)(e) would clarify that whenever an automobile is made available in respect of, in the course of or because of a taxpayer's office or employment, the employer must include a standby charge in income regardless of whether the employer makes the benefit available or if an employee employer relationship exists at the time the benefit is provided.

The department also proposes consequential amendments to related provisions in the Act covering automobile operating expense benefits (paragraph 6(1)(k)) and calculating the standby charge (paragraph 6(2)).

The amendments affecting automobile taxable benefits would apply as of January 1, 2023.

In the package of draft amendments released, the Finance Department also proposes to expand the definition of "remuneration" in subsection 100(1) of the Income Tax Regulations to include amounts paid from an employee life and health trust that are required to be included in an employee's income by paragraph 56(1)(z.2) of the Act. The amendment would take effect on August 9, 2022.

For more information on these and other proposed amendments to the Act and its regulations, please see https://www.canada.ca/en/department-finance/news/2022/08/government-delivering-on-budget-2022-commitments-to-canadians.html.

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

ESDC Publishes Draft Regulations on Paid Medical Leave under CLC

Employment and Social Development Canada (ESDC) recently published proposed amendments to the Canada Labour Standards Regulations to support the implementation of paid sick days for federally regulated private-sector workers later this year.

Last December, Canada's Parliament passed legislation (Bill C-3) to provide 10 days of paid medical leave for workers covered under the *Canada Labour Code*. Amendments to that legislation passed in June (Bill C-19) will allow for the paid medical leave provisions to come into force no later than December 1, 2022.

The new paid medical leave standards will provide employees with three days of paid sick leave after 30 days of continuous employment. After completing one month of continuous employment, employees will earn one day of paid sick leave at the start of each month, to a maximum of 10 days per calendar year.

For each paid day of medical leave, employers will have to pay employees their regular wage rate for their normal work hours. Any days employees do not take will be carried forward to January 1 of the next calendar year and each day carried-over day will decrease by one the maximum number of days that the employee can earn in that calendar year. Employers may require employees to provide a medical certificate for medical leaves of at least five consecutive days, whether paid or unpaid, provided that the employer makes the request in writing within 15 days after the employee returns to work.

The proposed regulations, published in the July 16, 2022 *Canada Gazette Part I* (Vol. 156, No. 29), would include the following elements:

- To determine regular rate of wages for paid medical leave for employees whose hours of work differ from day to day or who are paid on a basis other than time (such as commission), employers would have to use the same calculation that they do for statutory holiday pay and other paid leaves. Using this approach, regular rate of wages would be the employee's average daily earnings, excluding overtime pay, for the 20 days the employee worked immediately before the first day of the paid medical leave, or an amount determined using another method that the employer and a trade union representing the employee agreed to under a collective agreement that is binding on the employer and the employee.

- For each period of paid medical leave, the proposed regulations would require employers to keep records on the dates the leave began and ended; the year of employment for the which the employee earned the leave; the number of days of leave the employee carried over from the previous year; a copy of the employer's written request for a medical certificate for the leave, and a copy of the certificate that the employee provided.
- Employers who use a year other than a calendar year to calculate employees' annual vacations would have to use the same year to determine employees' entitlement to paid medical leave.
- Employees in the longshoring sector who have multiple employers (i.e. casual daily dispatch workers on the West Coast, and bullpen workers on the East Coast) would be considered to be continuously employed for determining eligibility for paid medical leave.
- Paid medical leave would be included when calculating time worked for hours of work averaging.
- The Standards for Work-Integrated Learning Activities Regulations would be amended to ensure that student interns, who are not required to be paid, would not be entitled to paid medical leave.
- The Administrative Monetary Penalties (*Canada Labour Code*) Regulations would be amended to incorporate violations of the new paid medical leave requirements.

EDSC is planning to implement the regulations at the same time that the new paid medical leave provisions come into force.

In a statement in the draft regulations, the department said its Labour Program might develop interpretation, policy and guidance documents (IPGs) with additional information on how paid medical leave requirements apply to employees who work irregular hours or work under an "elect-to-work" model

We will continue to monitor this story and will report on further developments in upcoming releases. For more information on the proposals, see https://gazette.gc.ca/rp-pr/p1/2022/2022-07-16/pdf/g1-15629.pdf.

Fourth Quarter Prescribed Interest Rates Set

The prescribed rate for taxable benefits to employees and shareholders from interest-free and low-interest loans is 3% from October 1, 2022 to December 31, 2022. The rate is one percentage point higher than it was in the previous quarter.

The interest rate for unpaid source deductions, overdue taxes and insufficient instalments is 7% for the fourth quarter.

Reminder: Upcoming Statutory Holidays

Just a reminder... The following statutory holidays are upcoming:

- Mon., Aug. 1: British Columbia, New Brunswick, Northwest Territories, Nunavut, and Saskatchewan—First Monday in August (The day is also a holiday, although not a statutory holiday, in Alberta. Municipalities in some Canadian jurisdictions may also designate the day as a holiday.)
- Mon., Aug. 15: Yukon—Discovery Day
- Mon., Sept. 5: All jurisdictions—Labour Day
- Fri., Sept. 30: *Canada Labour Code*, Northwest Territories, Nunavut, and Prince Edward Island—National Day for Truth and Reconciliation
- Mon., Oct. 10: All jurisdictions, except New Brunswick, Newfoundland and Labrador, Nova Scotia and, Prince Edward Island—Thanksgiving
- Fri., Nov. 11: All jurisdictions except Manitoba, Nova Scotia, Ontario, and Quebec—Remembrance Day. In Manitoba and Nova Scotia, the day is a holiday under each jurisdiction's *Remembrance Day Act*. As a result, the holiday is treated in a different way than holidays under employment/labour standards laws.

For information on entitlement to the holidays and how to compensate employees for them, please refer to the applicable jurisdiction in chapter 19, Statutory Holidays.

2023 Maximum Assessable/Insurable Earnings

The following workers' compensation bodies have announced their maximum assessable/insurable earnings for 2023:

British Columbia: $112,800 (2022: $108,400)
Quebec: $91,000* (2022: $88,000)
*Proposed

Reminder: Minimum Wage Rates Rising on Oct. 1

Just a reminder… Minimum wage rates will rise in a number of Canadian jurisdictions to the following amounts on October 1, 2022:

- Manitoba: $13.50/hour (currently $11.95)
- New Brunswick: $13.75/hour (currently $12.75)
- Newfoundland and Labrador: $13.70/hour (currently $13.20)
- Nova Scotia: $13.60/hour (currently $13.35)
- Ontario: $15.50/hour (currently $15.00)
- Saskatchewan: $13.00/hour (currently $11.81)

In Ontario, the following minimum wage rates are also slated to rise on October 1, 2022:

- Homeworkers (110% of general rate): $17.05 per hour (currently $16.50)
- Students under 18 working fewer than 28 hours per week (or more than 28 hours during

school vacation): $14.60 per hour (currently $14.10)

- Hunting/fishing/wilderness guides
  - working for fewer than five consecutive hours a day: $77.60 (currently $75.00)
  - working five or more hours, whether or not consecutive: $155.25 (currently $150.05)

Ontario Reminder: Deadline for Developing Electronic Monitoring Policy is Oct. 11

Just a reminder…Employers in Ontario who are required to develop a policy on electronic monitoring of employees have until October 11, 2022 to have the written policy in place.

Recently passed amendments to Ontario's *Employment Standards Act, 2000* (Bill 88, the *Working for Workers Act, 2022)* require employers with at least 25 employees as of January 1 of any year to establish a written policy on electronic monitoring of their workers before March 1 of that year. As a transitional measure, the government gave employers with at least 25 employees as of January 1, 2022 until October 11, 2022 to implement the policy.

The policy must inform employees of whether the employer electronically monitors them and, if so, how it does it and under what circumstances. The policy must also notify employees of the purposes for which the employer may use the information it collects. In addition, the policy must include the date the employer created it and the date of any changes to it. Regulations under the Act could prescribe other information to include.

Employers must provide the policy to employees within 30 days of being required to create it or within 30 days of a new employee beginning employment.

For more information, see https://www.ontario.ca/document/your-guide-employment-standards-act-0/recent-changes#section-0.

Ontario WSIB Eliminating Paper Employer Statements

Beginning in January 2023, the Workplace Safety and Insurance Board (WSIB) will stop providing a paper version of statements of account, premium rate statements and claim detail statements.

Instead, employers will be able to access the information through their online WSIB accounts.

In a news release, the board said eliminating paper statements would help it address climate change and manage its administrative costs more efficiently.

The WSIB said employers will receive their last paper statement of account in mid-January 2023.

For more information on the change and on how to create an online account (for employers who do not already have one), see https://www.wsib.ca/en/news-release/were-eliminating-paper-statements

Revenu Québec Posts Updated Formulas for Calculating Taxable Income

In August, Revenu Québec posted on its website updated formulas for calculating taxable income to help employers update their payroll systems in preparation for upcoming changes affecting Quebec Pension Plan (QPP) contributions.

Effective January 1, 2023, amendments to the Regulation respecting the Taxation Act will require employers to deduct enhanced QPP contributions from employees' employment income before calculating income tax deductions each pay period. The changes will harmonize Quebec regulations with previously announced federal amendments to its Income Tax Regulations affecting Canada Pension Plan (CPP) contributions.

Enhanced C/QPP contributions are the additional contributions that employers and employees must pay beyond the base contribution rate of 4.95% (CPP)/5.4% (QPP) to help increase C/QPP retirement benefits. For the QPP, the Quebec government is implementing the enhancement in two phases. The first phase, from 2019 to 2023, involves gradually raising the QPP contribution rate by 1% to 6.4% for earnings up to the yearly maximum pensionable earnings (YMPE).

In the second phase, beginning in 2024, the federal and Quebec governments will implement a second additional contribution rate of 4% each for employers and employees on pensionable earnings between the YMPE and a new upper earnings limit. In 2024, the new upper earnings limit will be 107 per cent of the YMPE. In 2025, it will rise to 114 per cent of the YMPE.

Revenu Québec said the updated formulas apply as of January 1, 2023, but it published them in advance to give employers time to adjust their payroll systems for 2023. Employers should not use the revised formulas for 2022. Revenu Québec said it would post updated formulas for 2024 at a later date.

For more information on the updated formulas, see https://www.revenuquebec.ca/en/press-room/tax-news/details/2022-08-11/harmonization-with-the-regulations-amending-the-income-tax-regulations-as-regards-additional-cpp-and-qpp-contributions/.

The Canada Revenue Agency has already published updated formulas for federal income tax deductions and additional CPP contributions. For more information on them, see https://www.canada.ca/en/revenue-agency/services/forms-publications/payroll/t4127-payroll-deductions-formulas/t4127-jul.html.

New N.W.T. Minimum Wage Calculation Coming for Sept. 2023

Beginning September 1, 2023, the Northwest Territories government will change the way it calculates and adjusts the territorial minimum wage rate.

On that date, it will begin adjusting the rate annually using a formula based on the percentage change in the consumer price index (CPI) for Yellowknife and the percentage change in the average hourly wage in the Northwest Territories for the previous calendar year.

With the change, the government will adjust the rate using the new formula beginning in 2023 and every year afterwards unless the minister of Education, Culture and Employment directs otherwise. The government will announce the adjusted minimum wage rate by August 1 each year.

Currently, the government sets the minimum wage rate based on input from a territorial Minimum Wage Committee, which reviews the rate every two years. The government last adjusted the rate on September 1, 2021, which was the first change since 2018. With the move to an indexed minimum wage rate, Minister of Education, Culture and Employment R.J. Simpson said the government would dissolve the Minimum Wage Committee.

While the new adjustment method will mean that the minimum wage will rise in most years, Simpson said the government would not lower the rate in a year where the percentage change in the CPI or average hourly wage went below zero.

Simpson also said the move to using CPI for minimum wage adjustments would help residents keep up with the cost of living in the territory and better align the Northwest Territories with the way many other Canadian jurisdictions set their minimum wage rates. He added that the change would help employers to better plan for minimum wage changes.

"Using this new formula to calculate the Northwest Territories minimum wage will result in predictable, measurable, and data driven changes that will provide stability and certainty for the territory's business community," said Simpson in a news release.

P.E.I. Minimum Wage Rate Going Up in 2023

The minimum wage rate in Prince Edward Island will go up twice next year as the government moves towards a $15-an-hour rate by October 2023.

On January 1, 2023, the government will raise the rate from $13.70 an hour to $14.50. It will increase the rate again on October 1, 2023 to $15.

The rate changes stem from an annual minimum wage review that P.E.I.'s Employment Standards Board carried out in August. While the board recommended raising the minimum wage rate, it did not advise the government to increase the maximum amounts that employers may deduct from employees' wages if the employer provides board and lodging. As a result, the maximums will remain $61.60 a week for board and lodging; $49.50 per week for board only; $27.50 a week for lodging only; and $4.25 per meal for single meals.

We will update Table 17.1, Minimum Wages, to incorporate a note about the minimum wage rate changes in an upcoming release.

Payroll Q & A

Question: When calculating a taxable benefit for employer-paid group-term life insurance premiums, do we include the GST/HST/QST?

Answer: No, insurance is a financial service, which is an exempt supply for the Goods and Services Tax (GST), Harmonized Sales Tax (HST) and the Quebec Sales Tax (QST).

To calculate the taxable benefit for employer-paid group term life insurance premiums, include the premiums payable for the term insurance and all of the sales taxes and excise taxes that apply (excluding the GST/HST/QST), as well as any applicable provincial insurance levies or sales taxes.* From this total, subtract the amount of premiums and any taxes that the employee paid (whether directly or indirectly through reimbursements). The result is the taxable benefit amount. This calculation applies if the employer pays the premiums regularly and the premium rate for each individual does not depend on the individual's age or gender. In other situations, a more detailed calculation is required. For information, contact the CRA at 800-959-5525.

**Note: In Ontario, the province's 8% retail sales tax applies. In Manitoba, the province's 7% retail sales tax applies on group term life insurance contracts for employees who are provincial residents. In Quebec, a 9% sales tax on insurance is levied.*