Carswell Payroll Source Alert – December *2020 Issue*

Government Proposes to Implement Limit on Employee Stock Option Deduction on Jul. 1

Beginning July 1, 2021, the federal government is proposing to put an annual cap of $200,000 on the amount of some employee stock options that are eligible for an income tax deduction.

Deputy Prime Minister and Finance Minister Chrystia Freeland included the proposal in the government's Fall Economic Statement, released on November 30, 2020.
Under the proposal, a $200,000 limit would be put on the amount of employee stock options that may vest in an employee in a calendar year and continue to qualify for the stock option deduction allowed under the federal *Income Tax Act*.

The deduction allows employees who meet specified conditions to deduct from their income one-half of the amount of the taxable benefit that results from stock options that they acquire from their employer.

The government first proposed the cap in its 2019 federal budget, saying the current deduction rules disproportionately benefit a small number of high-income earners working for large, well-established companies.

To ensure that the deduction is targeted to start-ups and emerging corporations, the government proposes to apply the cap to established employers that are corporations or mutual fund trusts. The cap would generally not apply to any Canadian-controlled private corporations (CCPCs) or to non-CCPCs whose gross revenue was no more than $500 million.

The proposed changes would apply to employee stock options granted after June 2021. The current rules would continue to apply to stock options granted before July 1, 2021.

In situations where the amount of stock options that may vest in a year is more than $200,000, the options granted first would be the first ones to qualify for the deduction. If an employee exercised a stock option that exceeded the $200,000 limit, the taxable benefit would be the difference between the fair market value of the share when the employee exercised the option and the amount the employee paid to acquire the share. The full amount of the benefit (with no deduction) would be included in the employee's income in the year the option is exercised.

The proposed changes would apply to employee stock options granted after June 2021. The current rules would continue to apply to stock options granted before July 1, 2021.

The economic statement also included the following proposals affecting employer tax treatment of employee stock options:

- Employers would be allowed to claim an income tax deduction for employee stock option benefits included in an employee's income if the options exceeded the $200,000 limit and the employer met specified conditions (i.e., the same ones that employees must meet to be eligible for the employee stock option deduction).

- Employers subject to the proposed new rules would be able to choose whether to grant employee stock options with the deduction for employees, up to the $200,000 limit, or whether to designate them as ineligible for the employee deduction, but eligible for the employer to deduct for corporate income tax purposes.
- Employers would be required to ensure that they comply with the $200,000 limit, including notifying employees in writing whether the options they grant are eligible for the employee stock option deduction or the employer deduction. Employers would also have to notify the Canada Revenue Agency if they issued securities that are covered under the proposed changes.

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

New Federal Pay Transparency Rules Coming

Effective January 1, 2021, federally regulated employers covered by the *Employment Equity Act* will be required to record new salary data as part of a federal government initiative to implement pay transparency.

Beginning June 1, 2022, the employers will have to include aggregated wage gap information in their annual reporting on employment equity. In the fall of 2022 or the winter of 2023, the government plans to publish the information in an annual employment equity report and include it in an online application comparing data on wage gaps for women, Indigenous people, persons with disabilities, and members of visible minorities working in the federally regulated workplaces.

Employment and Social Development Canada said the new salary data would allow employers to determine wage gaps in hourly rate, bonus pay, overtime pay, and overtime hours for their employees.

2021 Maximum Assessable/Insurable Earnings

The following workers' compensation bodies have announced their maximum assessable/insurable earnings for 2021:

Alberta: $98,700 (2020: $98,700)
British Columbia: $100,000 (2020: $87,100)
Manitoba: $127,000 (2020: $127,000)
New Brunswick: $67,100 (2020: $66,200)
Newfoundland and Labrador: $67,985 (2020: $66,980)
Northwest Territories: $97,300 (2020: $94,500)
Nova Scotia: $64,500 (2020: $62,000)
Nunavut: $97,300 (2020: $94,500)

Ontario: $102,800* (2020: $95,400)
Prince Edward Island: $55,300 (2020: $55,300)
Quebec: $83 500 (2020: $78,500)
Saskatchewan: $91,100 (2020: $88,906)
Yukon: $91,930 (2020: $90,750)

**Note: The Ontario government has tabled legislation that would cap the maximum insurable earnings at $97,308 for 2021. At the time of writing, the legislation had not yet passed. For updates, please contact our Payroll Hotline Service at 416-609-0152 (local) or 1-800-661-6828 (toll free) or by e-mail at Carswell.PayrollHotline@thomsonreuters.com.*

Reminder: Indexing of Alberta Income Tax System remains Suspended

Just a reminder… The Alberta government has temporarily halted annual indexing of the province's personal income tax system. The change affects provincial taxable income brackets and personal amounts claimed on an *Alberta Personal Tax Credits Return* (TD1AB).

The government announced the measure in its 2019 budget. It has not said how long the suspension would last other than to state that it would apply until the province's economic and fiscal conditions improve.

Reminder: 2020 B.C. EHT Instalment Payment Due this Month

Just a reminder…The provincial government has deferred instalment payment due dates for the 2020 calendar year for its Employer Health Tax (EHT) to help employers cope with financial challenges related to Coronavirus disease 2019 (COVID-19).

The instalments are now due as follows:

December 31, 2020 – first instalment;
January 31, 2021 – second instalment;
February 28, 2021 – third instalment; and
March 31, 2021 – final instalment.

Employers are required to pay the EHT in quarterly instalments if their EHT in the previous calendar year exceeded $2,925. The instalments are normally due June 15, September 15 and December 15 of the current calendar year, and March 31 of the following year

Reminder: Manitoba Payroll Tax Thresholds to Rise

Just a reminder…The provincial government will raise the thresholds that apply to the province's Health and Post-Secondary Education Tax Levy next year.

The changes are included in Bill 2, *The Budget Implementation and Tax Statutes*

Amendment Act, which received royal assent on November 6, 2020. The bill replaces previously introduced legislation that had not passed before the government prorogued the prior legislative session.

As a result of the amendments, the threshold for registering for the levy will rise from $1.25 million of annual remuneration to $1.5 million, effective January 1, 2021.

The amendments will also raise the thresholds that determine which tax rate employers pay for the levy. Beginning January 1, 2021, employers with an annual payroll between $1.5 million and $3 million will pay the tax at a rate of 4.3% of accumulated payroll exceeding $1.5 million. Currently, this rate applies to employers with an annual payroll between $1.25 million and $2.5 million.

Employers with an annual payroll of more than $3 million will pay the tax at a rate of 2.15% of monthly payroll. Currently, the 2.15% rate applies to employers whose annual payroll is more than $2.5 million.

Right to Refuse Sunday Work Added to Manitoba *Employment Standards Code*

Effective December 10, 2020, the Manitoba government repealed legislation that governed when retail businesses had to close for holidays.

In conjunction with the repeal of *The Retail Businesses Holiday Closing Act*, the province gave municipal governments authority over the days and hours that businesses may operate and amended *The Employment Standards Code* to ensure that retail workers continue to have the right to refuse to work on Sundays. That right was previously provided through *The Retail Businesses Holiday Closing Act*.

The changes were included in Bill 4, *The Retail Business Hours of Operation Act (Various Acts Amended or Repealed),* which received royal assent on December 3, 2020.

The amendments to *The Employment Standards Code* stipulate that, subject to regulations under the Code, employees in retail businesses may refuse to work on a Sunday if they give their employer at least 14 days' notice before the Sunday or, if they are scheduled to work fewer than 14 days before the Sunday, they provide as much notice as is reasonable and practicable.

Employers are prohibited from laying off or terminating the employment of an employee or changing his or her working conditions or wage rate because, after giving the required notice, the employee refuses or tries to refuse to work on a Sunday. The prohibition does not apply if the layoff, termination, or change in working conditions or wage rate is not related to the refusal to work on a Sunday.

The right of refusal also applies to Remembrance Day for employees working in retail businesses.

Reminder: Ontario EHT Threshold to Remain $1 Million

Just a reminder…The Ontario government will keep the payroll exemption for its Employer Health Tax (EHT) at $1 million from 2020 to 2028.

Earlier this year, the government temporarily raised the threshold from $490,000 to $1 million as part of its efforts to assist employers facing financial difficulties due to Coronavirus disease 2019 (COVID-19). It had initially said the threshold would return to $490,000 in 2021; however, in its November 5, 2020 budget, the government announced that the $1 million threshold would remain in place through to the end of 2028. The provincial legislature subsequently passed legislation to implement the change.

The government will also delay the date that the EHT exemption is adjusted for inflation. Normally, it occurs every five years, with the next adjustment scheduled for 2024; however, the government will postpone the next adjustment until January 1, 2029.

In addition, the government will increase a payroll threshold used to determine whether employers subject to the EHT must pay it in monthly installments. Beginning January 1, 2021, the threshold will rise from $600,000 to $1.2 million. Employers subject to the EHT whose annual Ontario payroll is below the threshold will pay the EHT when they file their annual returns.

Quebec Bonus Method Threshold Increases for 2021

The threshold for determining whether to use the "bonus method" to calculate income tax source deductions on bonuses and retroactive pay will increase from $15,532 to $15,728 for 2021, Revenu Québec has announced.

For more information on the bonus method, please see 8.4.1 Bonuses, Incentives, and Awards.

2021 Reminder: Annual Indexing of Saskatchewan Income Tax System to Resume

Just a reminder…Effective January 1, 2021, the Saskatchewan government plans to lift a suspension on annually indexing the personal income tax system.

The change, announced in this year's provincial budget, would affect provincial income brackets and personal amounts claimed on a *Saskatchewan Personal Income Tax Return* (TD1SK). The government implemented the suspension at the beginning of 2018 and said it would apply until the province's finances improved.

Payroll Q & A

Question: Because of the COVID-19 pandemic, almost all of our employees have been working from home since last March. We provide them with an allowance to pay for their work-related Internet costs. Is the allowance taxable and, if so, how do we report it on employees’ T4 slips

Answer: If employers provide employees with an allowance for Internet service, both the Canada Revenue Agency and Revenu Québec say the allowance is taxable. In addition to including the allowance when calculating income tax deductions, employers must include it when determining Canada/Quebec Pension Plan (C/QPP) contributions and Employment Insurance (EI) and Quebec Parental Insurance Plan (QPIP) premiums.

Instead of an allowance, some employers provide their employees with Internet service at home, or reimburse them for the cost of Internet service. If the employees solely use the Internet for work, the cost of the service or the employer’s reimbursement of it is not a taxable benefit. If employees use the Internet for both work and personal reasons, the personal use is a taxable benefit. The employer must determine the percentage of time that the employee used the Internet service for employment and personal purposes and include the value of the personal use in the employee's income. The value is the fair market value of the personal use of the Internet service, less any amounts the employee reimbursed the employer. It is up to the employer to determine the fair market value.

For Quebec, if an employer provides its employees with Internet service at home or reimburses them for the cost of Internet service, a taxable benefit will arise if the employer provided the service primarily for the employee's benefit and the employee's personal use of the Internet resulted in additional fees.

If the taxable benefit is provided in cash, it would be subject to C/QPP contributions, EI and QPIP premiums, and income tax deductions. If non-cash, the taxable benefit would be subject to C/QPP contributions and income tax deductions, but not EI or QPIP premiums.

Employers must report a taxable allowance or a taxable benefit in box (14) and in the "Other Information" area of the T4 (code 40). For Revenu Québec, report the taxable allowance and taxable benefit on an RL-1 in boxes (A) and (L).