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BILL C-14:
A SECOND ACT RESPECTING CERTAIN MEASURES IN RESPONSE TO COVID-19

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Sylvain Fleury
Édison Roy-César
Alex Smith
Economics, Resources and International Affairs Division
Parliamentary Information and Research Service
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Notice: For clarity of exposition, the legislative proposals set out in the bill described in this Legislative Summary are stated as if they had already been adopted or were in force. It is important to note, however, that bills may be amended during their consideration by the House of Commons and Senate, and have no force or effect unless and until they are passed by both houses of Parliament, receive Royal Assent, and come into force.
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LEGISLATIVE SUMMARY OF BILL C-14:
A SECOND ACT RESPECTING CERTAIN MEASURES IN RESPONSE TO COVID-19

1 BACKGROUND

Bill C-14, A second Act respecting certain measures in response to COVID-19 (short title: COVID-19 Emergency Response Act, No. 2), was introduced and read for the first time in the House of Commons and the Senate on 11 April 2020, following days of inter-party negotiations. The bill also received second reading, was referred to the Committee of the Whole, was concurred in at report stage, and received third reading without amendment in both Chambers as well as Royal Assent that same day.

As the bill’s short and long titles suggest, the purpose of Bill C-14 is to implement additional measures to respond to the COVID-19 pandemic.

Bill C-14 has two parts:

- Part 1 amends the Income Tax Act to introduce the Canada Emergency Wage Subsidy as part of the response to the COVID-19 pandemic (clauses 2 to 7).
- Part 2 amends Part IV.1 of the Financial Administration Act to provide that certain provisions of that Act, as enacted by the COVID-19 Emergency Response Act, cease to have effect on the day after 30 September 2020 (clauses 8 to 12).

This document provides a brief description of the main measures proposed in the bill by summarizing the substance of each part. For ease of reference, the information is presented in the same order as it appears in the summary of the bill.

2 DESCRIPTION AND ANALYSIS

2.1 PART 1: AMENDMENTS TO THE INCOME TAX ACT

Clauses 2 to 7 of Bill C-14 amend the Income Tax Act (ITA) to provide for an emergency wage subsidy, which the federal government calls the Canada Emergency Wage Subsidy (CEWS). The subsidy is available to qualifying entities for at least one of the following qualifying periods: 15 March to 11 April 2020, 12 April to 9 May 2020, 10 May to 6 June 2020, and possibly a period prescribed by regulations ending no later than 30 September 2020.

Clause 2 adds new section 125.7 to the ITA.
New section 125.7(1) sets out definitions for the terms that apply to the emergency wage subsidy: baseline remuneration, current reference period, eligible employee, eligible entity, eligible remuneration, prior reference period, public institution, qualifying entity, qualifying period, qualifying revenue and specified percentage.

An eligible employee is an individual employed in Canada by a qualifying entity in respect of a week in a qualifying period, other than an individual who is without remuneration in respect of 14 or more consecutive days in the qualifying period.

A qualifying entity is an individual, a corporation whose income is taxable, a partnership, a non-profit organization or a registered charity whose qualifying revenue declined by at least 15% between 15 March and 11 April 2020, by at least 30% between 12 April and 9 May 2020 or by at least 30% for the qualifying period of 10 May to 6 June 2020 compared with March, April and May 2019, respectively. Alternatively, the qualifying entity’s qualifying revenue decreased by these same percentages compared with the average of January and February 2020, if the qualifying entity was not carrying on business or otherwise carrying on its ordinary activities on 1 March 2019 and it chose this calculation method for the first three qualifying periods. The entity must also file an application before October 2020, it must have had on 15 March 2020 a business number used by the Minister of National Revenue to make remittances required under section 153 of the ITA and the individual who has principal responsibility for the entity’s financial activities must attest that the application is complete and accurate in all material respects.

New section 125.7(2) sets out the formula for calculating the amount of the emergency wage subsidy:

\[ A - B - C + D \]

Under new section 125.7(2), the amount of the emergency wage subsidy that a qualifying entity can receive in respect of a qualifying period equals the total of the amounts that each represents 75% of the eligible remuneration paid to an eligible employee, up to a maximum amount of $847 per week per employee (variable A of the formula). Subtracting from the amount of the emergency wage subsidy are the 10% temporary wage subsidy the entity received under section 153(1.02) of the ITA (variable B of the formula) and the Employment Insurance benefits received by the employee through the Work-Sharing program (variable C of the formula).

A qualifying entity may also be refunded its employer contributions for an employee under the Employment Insurance Act, the Canada Pension Plan or a provincial pension plan or under Quebec’s Act respecting parental insurance for each week during which the employee is on leave with pay and for which the entity may apply for the emergency wage subsidy in respect of that employee (variable D of the formula).
Pursuant to new sections 125.7(1), 125.7(4) and 125.7(6) of the ITA, for the purposes of the emergency wage subsidy, an entity’s qualifying revenue is the revenue from its ordinary activities in Canada – generally the sale of goods and the rendering of services. Revenue from sources not dealing at arm’s length with the qualifying entity and the amount of the 10% temporary wage subsidy it received under section 153(1.02) of the ITA are excluded from the calculation of its qualifying revenue. Specific rules are provided for calculating the qualifying revenue of registered charities and other non-profit persons or organizations whose revenue is tax-exempt pursuant to sections 149(1)(e), 149(1)(j), 149(1)(k) or 149(1)(l) of the ITA. For these entities, qualifying revenue includes most forms of revenue, except those received from persons or partnerships with which they are not dealing at arm’s length. They can also choose to include or exclude revenue from government sources in calculating their qualifying revenue.

Under new section 125.7(4) of the ITA, an entity must determine its qualifying revenue in accordance with its normal accounting practices and may use the accrual method or cash method. Specific technical rules are provided for groups of entities that normally prepare consolidated financial statements, affiliated groups of entities and participants in a joint venture. In addition, specific rules are provided for calculating the qualifying revenue of qualifying entities all or substantially all of whose qualifying revenue comes from persons or partnerships with which they are not dealing at arm’s length.

When an entity qualifies for a particular qualifying period under new section 125.7(1) of the ITA, it automatically qualifies for the immediately following qualifying period pursuant to new section 125.7(9) of the ITA.

Clauses 2 and 4 add new sections 125.7(5) to 125.7(7), 163(2.9) and 163(2.901) to the ITA. These provisions contain anti-avoidance rules intended to prevent the emergency wage subsidy from being improperly obtained. An entity that carries out artificial transactions in order to increase the amount of its emergency wage subsidy is liable to a penalty of 25% of the value of the subsidy claimed in its application and must repay the improperly claimed subsidy.

Clauses 5 and 7 add sections 164(1.6) and 164(1.61) to the ITA. These provisions enable the Minister of National Revenue to make payments relating to the emergency wage subsidy to a person or partnership out of the Consolidated Revenue Fund at the times and in the manner the Minister considers appropriate.

Clause 6 authorizes the Minister of National Revenue to communicate or otherwise make available to the public, in any manner the Minister considers appropriate, the name of any person or partnership that applies for an emergency wage subsidy.
2.2 PART 2: AMENDMENTS TO THE FINANCIAL ADMINISTRATION ACT


Part 2 of Bill C-14 amends the FAA such that certain provisions enacted by Bill C-13 would cease to have effect.

More specifically, Bill C-13 amended the FAA to allow the Minister of Finance to make payments to a province or territory – or, after consultation with a province or territory, to an entity – for the purposes of responding to a situation of significant and systemic economic and financial distress. Clause 8(1) of Bill C-14 reinstates the previous wording of the FAA, thereby removing this authority. Clauses 8(2) to 8(6) make consequential amendments to the FAA, also reinstating the previous wording.

Bill C-13 amended the FAA to authorize the Minister of Finance, if necessary to promote or maintain the stability of the financial system in Canada, to procure the incorporation of a corporation in which the government holds all of the shares, as well as establish an entity other than a corporation. The purpose of these provisions is to allow the Minister to set up holding companies to purchase assets of financial institutions or other companies. Clauses 9 and 10 of Bill C-14 amend the FAA to specify that these authorities end on 30 September 2020.

Clause 11 of Bill C-14 reinstates wording to the Canada Deposit Insurance Corporation Act that was changed as a result of consequential amendments in Bill C-13.

Clause 12 of Bill C-14 specifies that clauses 8 to 11 come into force on 1 October 2020.

NOTES

2. See, for example, Raisa Patel and John Paul Tasker, “Parliament adopts wage subsidy bill as MPs applaud all-party collaboration,” CBC News, 11 April 2020.
4. Ibid.
5. Eligible employees who are not dealing at arm’s length with the qualifying entity can receive up to 75% of remuneration paid, as defined in new section 125.7(1).


9. See the definition of “arm’s length” in section 251(1) of the *Income Tax Act*.

10. An exception is made in cases where all or substantially all of an eligible entity’s revenue comes from entities with which it does not deal at arm’s length. See new section 125.7(4)(d) of the *Income Tax Act*.

11. See the definition of “qualifying revenue” in new section 125.7(1)(a) of the *Income Tax Act*.

12. See the definition of “qualifying revenue” in new section 125.7(1)(b) of the *Income Tax Act*.

13. See new section 125.7(4)(e) of the *Income Tax Act*.

14. See new section 125.7(4)(a) of the *Income Tax Act*.

15. See new section 125.7(4)(b) of the *Income Tax Act*.

16. See new section 125.7(4)(c) of the *Income Tax Act*.

17. See new section 125.7(4)(d) of the *Income Tax Act*. 