



LEGISLATIVE SUMMARY

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

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Legislative Summary of Bill C-14
(Legislative Summary)

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CONTENTS

1	BACKGROUND	1
2	DESCRIPTION AND ANALYSIS.....	1
2.1	Part 1: Amendments to the <i>Income Tax Act</i>	1
2.2	Part 2: Amendments to the <i>Financial Administration Act</i>	4



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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),¹ 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.² That same day, the bill also received second reading, was referred to the Committee of the Whole, was concurred in at the report stage and, having received third reading without amendment in both chambers, received Royal Assent.

As the bill's short and long titles suggest, the purpose of Bill C-14 is to implement measures to respond to the coronavirus disease 2019 (COVID-19).

Bill C-14 has two parts:

- Part 1 amends the *Income Tax Act* to introduce the Canada Emergency Wage Subsidy³ 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 Legislative Summary 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.⁴ The subsidy is available to qualifying entities for one or more of the following qualifying periods:

- 15 March to 11 April 2020;
- 12 April to 9 May 2020;
- 10 May to 6 June 2020;
- a period prescribed by regulations, ending no later than 30 September 2020.

Clause 2 adds 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 an eligible entity in respect of a week that falls in a qualifying period, other than an individual who is without remuneration by that entity for 14 or more consecutive days during the qualifying period.

A qualifying entity is an eligible entity (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 compared with revenue in March 2019;
- by at least 30% between 12 April and 9 May 2020 compared with revenue in April 2019; or
- by at least 30% for the qualifying period from 10 May to 6 June 2020 compared with revenue in May 2019.

Alternatively, the entity's qualifying revenue must have decreased by these same percentages compared with the average of January and February 2020, if the entity was not carrying on business or any of 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; 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 obtain, from the individual with principal responsibility for the entity's financial activities, an attestation that the application is complete and accurate in all material respects.

New section 125.7(2) of the ITA sets out the formula for calculating the amount of the emergency wage subsidy: $A - B - C + D$.

Under that section, 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 represent 75% of the eligible remuneration paid to an eligible employee, up to a maximum of \$847 per week per employee (variable A of the formula).⁵ Subtracted from that total are the 10% temporary wage subsidy the entity received under section 153(1.02) of the ITA (variable B of the formula)⁶ and the employment insurance benefits received by the employee through the Work-Sharing program (variable C of the formula).⁷

A qualifying entity may also be refunded its employer contributions in respect of an employee under the *Employment Insurance Act*, the Canada Pension Plan or a provincial pension plan, or under Quebec's *Act respecting parental insurance*⁸ 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 calculating 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 entity⁹ and the 10% temporary wage subsidy it received under section 153(1.02) of the ITA are excluded from the calculation of its qualifying revenue.¹⁰

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.¹¹ For these entities, qualifying revenue means 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 the cash method.¹² Specific technical rules are provided for groups of entities that normally prepare consolidated financial statements,¹³ affiliated groups of entities¹⁴ and participants in a joint venture.¹⁵ 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.¹⁶

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

Clause 2 of Bill C-14 adds sections 125.7(5) to 125.7(7) to the ITA, and clause 4 amends the existing sections 163(2.9) and 163(2.901). 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.

Clause 5 of Bill C-14, which adds sections 164(1.6) and 164(1.61) to the ITA, and clause 7 of the same bill provide for 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 of Bill C-14 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*

On 25 March 2020, Parliament adopted Bill C-13, An Act respecting certain measures in response to COVID-19 (short title: COVID-19 Emergency Response Act),¹⁷ which made several amendments to the *Financial Administration Act* (FAA).

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 the stability or maintain the efficiency 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. One purpose of these provisions is to allow the Minister to set up holding companies to purchase the assets of financial institutions or other companies. Clauses 9 and 10 of Bill C-14 amend the FAA to specify that these authorizations end on 30 September 2020.

Clause 11 of Bill C-14 replaces wording in section 10.1(3) of the *Canada Deposit Insurance Corporation Act* to reinstate the meaning of the provision prior to the passage of Bill C-13.

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

NOTES

1. [Bill C-14, A second Act respecting certain measures in response to COVID-19](#), 1st Session, 43rd Parliament (S.C. 2020, c. 6).
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.
3. Government of Canada, [Canada Emergency Wage Subsidy \(CEWS\)](#).
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) of the *Income Tax Act* (ITA).
6. Government of Canada, "[1. What is the 10% Temporary Wage Subsidy for Employers?](#)," *FAQ – Temporary wage subsidy for employers: CRA and COVID-19*.
7. Employment and Social Development Canada, [Work-Sharing – Overview](#).
8. Quebec, [Act respecting parental insurance](#), CQLR, c. A-29.011.
9. See the definition of "arm's length" in section 251(1) of the ITA.
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 ITA.
11. See the definition of "qualifying revenue" in new section 125.7(1) of the ITA.
12. See new section 125.7(4)(e) of the ITA.
13. See new section 125.7(4)(a) of the ITA.
14. See new section 125.7(4)(b) of the ITA.
15. See new section 125.7(4)(c) of the ITA.
16. See new section 125.7(4)(d) of the ITA.
17. [Bill C-13, An Act respecting certain measures in response to COVID-19](#), 1st Session, 43rd Parliament (S.C. 2020, c. 5).