Newsletter

LRK TAX

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IN THIS EDITION...

COVID Benefit Audits Coming to a Small Business Near You?

Rebecca Gavra & Thanusan Raveendran, CPA, CA

According to Canada's Auditor General, more than 50,000 businesses that received the Canada Emergency Wage Subsidy ("**CEWS**") during the COVID Pandemic may not have been eligible. In dollar terms, the government may have provided close to $10 billion in support payments to ineligible businesses.

The CEWS was a government subsidy to help business owners keep employees during the pandemic. The CEWS went through many iterations and complicated rounds of legislative updates, so, understandably, mistakes were made by small businesses when they applied for the subsidy – especially in the heart of the pandemic where businesses didn't have the time or money for tax specialists to vet their calculations or filing positions.

The Auditor General has advised the Canada Revenue Agency ("**CRA**") to improve their audits to recover COVID-19 benefit amounts owed. The problem is that most small businesses would have spent the money by now. If they face an audit, they likely won't have the money readily available to pay back the subsidies.

It does not seem like the issues are only related to the CEWS subsidy. In September, the Globe and Mail reported that the government could face losses of around $5 billion on the Canada Emergency Business Account ("**CEBA**") loans. Although the government extended the forgiveness repayment date to December 31, 2023, it is only for "**eligible CEBA loan holders**" in good standing.

If you received CEBA, your bank should have contacted you by now to let you know whether you qualify for the new extended term and the new repayment date. Some businesses who received the CEBA loan may not be in good standing, even though they may have received the CEBA loan thinking they were in good standing. This could cause a major cash crisis if businesses have to repay the CEBA and miss out on up to $20,000 of the forgivable portion. If you're a small business that received CEBA, contact your bank to make sure you qualify for the extension and the forgiveness as soon as possible.

The government acted to get the pandemic payments to businesses as fast as possible. The dust has now settled. Canada now faces high inflation and a gloomy economic picture for 2023. Many experts and pundits blame the government for "exaggerated" pandemic spending. As a result, the CRA has already begun scrutinizing eligibility for the COVID subsidies. This could potentially put small businesses in an unforeseen cash crunch if they're forced to repay the benefits.

First Time Home Buyers Savings Account and RRSP Home Buyers' Plan Both Allowed

Rebecca Gavra & Thanusan Raveendran, CPA, CA

Earlier in the year, the government introduced the new tax-free **First Home Savings Account** ("**FHSA**"). The FHSA is a new registered account to help individuals save for their first home. Here are the program highlights:

- Contributions to FHSA are tax-deductible.
- You don't pay tax on the investment income earned inside the FHSA, and when you withdraw to buy your first home
- You can contribute up to your FHSA contribution room limit.
- You generate $8,000 of FHSA contribution room per year up to a lifetime limit of $40,000.
- Unlike an RRSP or TFSA, you need to open an account at your bank to have the $8,000 per year contribution room start accumulating. You can't just sit there and hope to generate an FHSA room!

The FHSA legislation is currently sitting in parliament (as of December 14, 2022) but is expected to be rolled out to Canadians in mid-2023.

In addition to the FHSA, to help first-time home buyers, there's also the RRSP Home Buyers' Plan ("**HBP**").

- The HBP is a government program which allows individuals to withdraw from their RRSPs (as a loan) to buy a home and pay back the withdrawn funds within 15 years. The program has a withdrawal limit of $35,000.

When the government introduced the FHSA earlier in the year, there was a significant limitation: You would not be allowed to make an FHSA withdrawal and a Home Buyer's Plan withdrawal to buy a home. You had to choose one program or the other.

We and several others in the tax community raised this with the government. With a contribution limit of $8,000, the FHSA will have only a small benefit for homeowners looking to buy in the next couple of years.

We have good news to share!

In the latest bill (Bill-C32), you can use the HBP and the FHSA to buy your first home. The legislation removed the wording restricting individuals from using both programs to purchase a home. You can potentially withdraw up to $35,000 from your HBP and what's in your FHSA account to buy your first home.

We plan to provide more details on the FHSA and tax strategies in the new year, even if you're never planning on becoming a homeowner. So, stay tuned.

Self-Employed and Maternity Benefits

Elisa Prisecaru and Martin Lee, CPA, CA

You probably became a business owner because you wanted to live the life you always wanted. Part of that could include focusing more on your family life. After all, what is to gain the whole world in business but lose out on what's important – family?

One drawback many feel is that their peers who work for others get benefits like EI – especially EI maternity and parental benefits. This has been a reason many delayed starting their own business. The good news is that **Employment Insurance (EI)** has a **Maternity and Parental Benefits** program designed for self-employed people, including owners of corporations looking to be away from the business because they're pregnant or have recently given birth.

EI Special Benefits for self-employed people can provide you with access to special benefits like maternity benefits as early as 12 months after registering.

Who can register?

You can apply and opt in for the **EI Special Benefits** program, if:

- you operate your own business, or
- you work for a corporation but cannot access EI benefits because you control more than 40% of the corporation's voting shares.

If you meet the above condition,

- You must be either a Canadian citizen or a permanent resident of Canada to apply, and
- have earned a minimum amount of net self-employed earnings between January 1 and December 31 of the year before you apply for benefits. To be eligible for benefits between September 25, 2022 and December 31, 2022, you need to have made at least $8,092 in net self-employed earnings in 2021.

Once I register, how long do I have to wait before I can apply for EI Maternity and Parental Benefits?

You have to wait **12 months** from the date of your confirmed registration before applying for EI special benefits. For example, if your confirmed registration date is November 12, 2020, you can apply for EI Maternity and Parental Benefits as early as November 12, 2021.

Maternity benefits

Maternity benefits are available to the person away from work because they're pregnant or have recently given birth. They can't be shared between parents. The person receiving maternity benefits may also be entitled to parental benefits.

Parental benefits

Parental benefits are available to the parents of a newborn or newly adopted child. IT allows you to take time off from work within 12 months (standard) to 18 months (extended) after birth or adoption.

What conditions must I meet to qualify for EI maternity and parental benefits?

You must meet the following conditions to qualify for **EI maternity and parental benefits**:

- your registration for access to the EI Program must still be **valid** (that is, not terminated);
- you accumulated **600 insured hours of work** in the 52 weeks before the start of your claim;
- you're **pregnant or have recently given birth** when requesting **maternity benefits.**
- you're a parent **caring for your newborn or newly adopted child** when requesting **parental benefits.**
- your regular weekly earnings from work have **decreased by more than 40%** for at least 1 week.

Maternity benefits can be followed by parental benefits. You can apply for both at once.

What if I change my mind about taking part in this EI program?

By participating in this EI program, you are registering with the Canada Employment Insurance Commission and agreeing to pay premiums on your self-employed income. You have 60 days to cancel your registration if you change your mind. If you cancel your registration within those first 60 days, you will not have to pay any premiums.

After the 60 days, you can terminate your registration anytime—as long as you have never claimed any benefits. This termination will be effective at the end of the calendar year, so you will have to pay EI premiums for the entire calendar year.

After you register for this program, you'll be responsible for paying premiums when you file your income tax return each year.

You'll pay premiums based on your self-employed income for the entire calendar year, starting the year you register. You will report your self-employment earnings on Schedule 13 of your T1 Return.

What happens after my maternity leave?

Once you have claimed EI benefits, your participation in the program lasts indefinitely. You will have to pay premiums for the entire duration of your self-employed career, regardless of any change in your self-employment.

Paying EI premiums on your self-employment income for the remaining duration of your self-employed career may not be the most financially attractive path since the amount of benefits is capped. However, this assumes that you will continue to be self-employed after giving birth. When it comes to parenting, there's no crystal ball and there's no expectation that one will return to self-employment any time soon, if at all. In some instances parenting becomes a full time job and some people choose to return to part time employment. In this case it makes perfect financial sense to opt into this program.

Even if one returns to full time self-employment, future premiums could entitle the contributor to other benefits including sickness, family caregiver benefit for children, family caregiver benefit for adults, and compassionate care.

How do I register

If you choose to register, you must do the following:

1. Visit the Service Canada page and sign up for My Service Canada Account. Service Canada will mail you a personal access code within 10 days.
2. Once you have your personal access code, log back into your My Service Canada Account and register for EI special benefits for self-employed people.
3. If you have already signed up for My Service Canada Account, simply log in and register for EI special benefits for self-employed people.

How much Maternity benefits do I receive for the amount I am making?

The amount of benefits you receive is based on the salary you are making. The more salary you make, the more benefits you will receive with a cap off at an amount of $ 638 a week.

Use the below click here to estimate the amount you would receive.

Benefit name	Maximum weeks	Benefit rate	Weekly max
Maternity (for the person giving birth)	up to 15 weeks	55%	up to $638
Standard parental (parents)	up to 40 weeks shared between parents, but one parent can only get a maximum of 35 weeks	55%	up to $638
Extended parental (parents)	up to 69 weeks shared between parents, but one parent can only get a maximum of 61 weeks	33%	up to $383

Notable Tax Updates for 2023 and Tax Benefits You Can Get

Rebecca Gavra, Mohammed Al-Khooly, Thanusan Raveendran

The Year 2022 was an interesting tax year, with many updates affecting small business owners. A lot of measures were targeted at cooling the housing market and making it more affordable. We summarize some of the key tax updates for you below.

Residential Property Anti-Flipping Tax

The real-estate market was red hot in 2022. One of the reasons behind it is that many see investing in real estate as worthwhile, especially given the many tax benefits like the principal residence and lower capital gains tax rate on house flips. Capital gains are taxed only at 50% of the regular tax rate.

The government is pulling back on some of these tax breaks, especially for people doing house flips and claiming the principal residence or treating it as capital gains.

In 2022, the government announced a new rule whereby if you flip a residential property and own it for less than 12 months, any gain from the sale is considered business income and not capital gain. Because no such clear-cut rule existed, many taxpayers treated gains from house flips as capital gains and even claimed the principal residence exemption.

There are some exemptions to the Anti-Flipping Tax rule where you sell a home due to life circumstances: death, household addition, separation, personal safety, illness, disability, employment changes, insolvency, natural disasters, etc.

You can read more about this rule on our website by clicking here.

This new rule applies to all residential properties sold **on or after January 1, 2023**.

Underused Housing Tax

If you own residential property, you should be aware of the newly proposed Underused Housing Tax ("**UHT** ") that took effect on January 1, 2022. The UHT is a national, annual 1% tax on the value of non-resident, non-Canadian-owned residential real estate that is vacant or underused.

We published an earlier article (click here) discussing that if you own real estate through a corporation, you may be required to file an Annual Declaration for the UHT, even though you will not be subject to the tax.

Failing to file the Annual Declaration on time could result in minimum penalties of $5,000 for individuals and $10,000 for corporations. So, if you own real estate, you may have more filings to do next year, even if they are not vacant or underused.

The deadline to file your Annual Declaration for 2022 is April 30, 2023.

If you own real estate in a corporation, reach out to your accountant immediately about this new requirement.

Doubling the First-Time Home Buyers' Tax Credit

The **Home Buyer's Tax Credit** has increased from $750 to $1,500. First-time home buyers who acquire a qualifying home can now claim a non-refundable tax credit of up to $1,500. The higher tax credit would apply to homes purchased on or after January 1, 2022, and homes under construction.

So if you purchased a home in 2022, let your accountant know so they can consider claiming this tax credit.

Doubling the Home Accessibility Tax Credit

The Home Accessibility Tax Credit is a non-refundable tax credit for eligible home renovation or alteration expenses for seniors and disabled individuals. To better support independent living, the government is doubling the tax credit. Previously you received a tax credit of 15% of up to $10,000 of renovation/alternation spending. Now the limit is $20,000. The maximum tax credit is now $3,000 (up from $1,500).

Multigenerational Home Renovation Tax Credit

Many Canadians have traditions of living together in multigenerational homes, with grandparents, parents, and children under one roof.

The **Multigenerational Home Renovation Tax Credit** allows families to claim 15% of up to $50,000 in eligible renovation and construction costs to construct a secondary suite for a senior or an adult with a disability. You can get back up to $7,500 from the government through lower taxes or a tax refund.

The tax credit applies to renovations and constructions starting **on or after January 1, 2023**.

The tax credit is a "refundable tax credit," meaning even if you don't pay enough taxes, the government will issue this tax credit as a refund.

Small Business Deduction Available to Larger Companies

The small business deduction provides a corporation with a reduced tax rate on up to $500,000 of active business income. Previously the small business deduction was reduced when the **taxable capital employed in Canada** exceeded $10 million within an associated group; the small business deduction was eliminated when taxable capital reached $15 million. The government has proposed to increase the limit from $15 million to $50 million.

The increase is effective for fiscal years that start on or after April 7, 2022. For companies with a calendar year-end, the change is effective starting with the December 31, 2023 tax year.

This change should allow more mid-sized companies to qualify for the small business deduction. However, it is also essential to be aware of the **passive income grind rules**, whereby if the company and associated companies earn more than $50,000 in passive investment income, the small business deduction gets reduced on a straight-line basis. If the investment income reaches $150,000, you lose the small business deduction entirely.

So even if a business qualifies for the small business deduction under the new expanded taxable capital test, it may lose some or all of the small business deduction if it has passive income above $50,000.

Bare Trustees Need to File Tax Returns

The government has announced new reporting requirements for trusts, whereby most trusts now need to file a T3 Trust Income Tax and Information Return ("**T3 Return**") annually for tax years ending on or after December 31, 2023, including trusts that have never filed before.

A **bare trust** is a trust where the trustees have no obligations other than to complete the instructions from the beneficiaries. The trustee holds the legal title of the property; however, the beneficiary has beneficial ownership of the property. Bare trusts are common in real estate transactions, whereby the trust holds the legal title of real property.

In previous years, a bare trust did not have to file a tax return since any income and capital gains would have been reported on the beneficiaries' tax returns. However, that has now changed. The government now requires trustees of bare trusts to file a T3 Return for tax years ending on or after December 31, 2023 (affecting filings done in the 2024 tax season).

In addition to filing the T3 Return, additional information about stakeholders such as trustees, beneficiaries, and settlers must be provided. This is to help the government recognize the arrangement in place for the bare trust, as they believe people use such structures to evade taxes and launder money.

There are **massive penalties** for failure to comply:

- A penalty of $25 would be applied for each day late with a minimum of $100 to a maximum of $2,500
- The new rules also impose a significant additional **gross negligence penalty** equal to **5% of the maximum value of property held by the trust during the relevant year**, with a minimum penalty of $2,500.

If you have any trust arrangements, including bare trusts, you must talk with your accountant as soon as possible. Because you were not required to file tax returns in the past, your accountant may not be aware of bare trust arrangements. It may also be a good idea to ask your lawyer about any bare trust arrangements you have going on.

Luxury Tax on Cars, Boats, and Vehicles

The government announced that a **Select Luxury Items Tax** would be in effect starting September 1, 2022. This tax applies to specific vehicles, aircraft and boats that cost more than the threshold. The threshold for vehicles and aircraft is $100,000, while the threshold for boats is $250,000 for boats (the threshold does not include GST/HST).

The tax is based on **the lesser** of:

a. **10%** of the total price
b. **20%** of the total price exceeding the threshold

Maximum RRSP and TFSA Contribution Limit

The maximum contribution limits for an **RRSPs**:

Year	RRSP Contribution Limit	Earned Income Required
2023	$30,780	$171,000
2024	$31,650	$175,833

For a **TFSA** account, the annual limit for 2023 is $6,500.

If you have been eligible for a TFSA since introduced in 2009 and never contributed – your TFSA room should be $88,000.

2023 Individual Tax Rates in Ontario

2023 Tax Bracket	Source of Income			
	Other Income	Capital Gains	Canadian Dividends	
			Eligible	Non-Eligible
first $49,231	20.05%	10.03%	-6.86%	9.24%
$49,231 to $53,359	24.15%	12.08%	-1.20%	13.95%
$53,359 to $86,698	29.65%	14.83%	6.39%	20.28%
$86,698 to $98,463	31.48%	15.74%	8.92%	22.38%
$98,463 to $102,135	33.89%	16.95%	12.24%	25.16%
$102,135 to $106,717	37.91%	18.95%	17.79%	29.78%
$106,717 to $150,000	43.41%	21.70%	25.38%	36.10%
$150,000 to $165,430	44.97%	22.48%	27.53%	37.90%
$165,430 to $220,000	48.29%	24.14%	32.11%	41.72%
$220,000 to $235,675	49.85%	24.92%	34.26%	43.51%
over $235,675	53.53%	26.76%	39.34%	47.74%

2023 Corporate Tax Rates in Ontario

2022 Corporate Income Tax Rates				
	Active Business Income			Investment Income CCPC
	General	Small Business (CCPC)	Business Limit	
Ontario	26.5%	12.2%	$500,000	50.17%

Happy Holidays from LRK Tax

May this season bring you joy!