CRA audit activities for COVID-19 financial relief programs

November 02, 2020

As a result of COVID-19, vast sums of money are being distributed through various federal government financial aid programs. To maintain the integrity of the programs and ensure accountability to stakeholders, it is likely that claims by recipients of federal financial assistance will be reviewed.

The Canada Revenue Agency (CRA) recently indicated that audit activities associated with these government programs will take place in the coming months. Audit activities in respect of the Canada Emergency Wage Subsidy (CEWS) claim have already begun.

CEWS

Eligibility for the CEWS is based on lost revenue. In all likelihood, the CRA's review activities will focus on the calculation of revenue and revenue reduction under the legislation. The CRA may perform a targeted audit to determine whether the claimant's revenue meets the various thresholds and/or meets the definition of qualifying revenue.

The verification process may be as painless as simply responding to a letter enclosing supporting documentation, or could involve more onerous, document-intensive queries. The CRA has vast auditing power and extensive ways to verify claimants' information, including seeking and comparing against information obtained from other government agencies or third parties.

CERB

The CRA has further advised that, as part of auditing any CEWS claim, it will be comparing employer payroll records with information provided by Canada Emergency Response Benefit (CERB) applicants to ensure individuals who have returned to work, and therefore are now ineligible for CERB, repay those amounts. Information on how to repay CERB can be found on the CRA website.

Students

Students who do not qualify for CERB are eligible for the Canada Emergency Student Benefit (CESB). Possible areas of verification could include confirming the student's enrolment at a postsecondary institute, or verifying enrolment in high school and whether they are looking for work, or if their pay is below the threshold.

Repaying benefits

In cases where recipients of any COVID-19 relief benefits are found to be ineligible, the CRA will initiate contact to make repayment arrangements. Suspected abuse of any program can be anonymously reported through the CRA's Leads program, a program to report tax or benefit cheating.

To discourage abuse of the CERB program, the federal government proposed strict penalties, ranging from fines equal to three times the amount of the support payment improperly received to more serious penalties, such as:

- fines up to $5,000 "plus an amount of not more than double the amount of the income support payment that was or would have been paid as a result of committing the offence"[1], and/or;
- a fine and imprisonment for a term not more than six months.

As of the date of this article, the proposed penalties have not been enacted into law. However, it is possible that more egregious cases of abuse could be subject to the *Criminal Code of Canada*, including the provisions dealing with criminal fraud.[2]

In respect of abuse in the CEWS program, the consequences of making an improper claim, or being later found to be ineligible, will, at minimum, result in a requirement that the recipient employer must repay any overpayment of benefits, plus interest. In addition, Parliament has enacted certain specific penalties, including a penalty equal to 25 per cent of the CEWS benefits claimed, which applies where the CRA has determined that the applicant entered into a transaction, or participated in an event, or took an action that culminated in the ability of the applicant to qualify for the program.[3]

In addition to these CEWS-specific penalties, more draconian penalties could apply. For instance, the CRA could assess gross negligence penalties where an applicant knowingly made a false statement or did not give any deference, when applying under the CEWS program, to whether the law was complied with.

The CRA has the burden of proving that the applicant was grossly negligent, but then the applicant has to show they were not grossly negligent. Although there is no direct tracing mechanism in the CEWS legislation, corporate directors could face liability if these funds are not applied to the payment of employee salaries and wages.

The CRA could also consider assessing third-party civil penalties, commonly referred to as "planner" and "promoter" penalties, against advisors and other individuals who have made, furnished, participated in or caused another person (in this case, the CEWS applicant) to make a false statement in the preparation of a CEWS claim.[4] In the most egregious cases, the CRA could potentially assess criminal penalties.

Audit activity

The CRA has begun auditing benefits obtained under the CEWS program. These audit activities, which the CRA describes as phase one of its CEWS reviews, are unusual in that they are happening nearly in real time, in many cases before the end of the year in which benefits were received.

The information requested in the CRA's initial audit letter is substantive and extensive. In light of the extent and breadth of the CRA's requests, CEWS program recipients should consult with their tax professionals for advice with respect to their obligations and rights in preparing a response.

Please contact a member of BLG's Tax Group if you need assistance in responding to the CEWS audit letter or any CRA audit in respect of the COVID-19 benefit programs.

[1] Bill C-17, *An Act respecting additional COVID-19 measures*, introduced for First Reading on June 10, 2020.

[2] Any potential criminal sanctions are outside the scope of this article.

[3] *Income Tax Act*, RSC 1985 c. 1 (5th Supp) s. 125.7(6) and s. 163(2.901).

[4] *Income Tax Act*, RSC 1985 c. 1 (5th Supp) s. 163.2(2).

By

Andrea Dickinson, Shannon James

Expertise

Tax

BLG | Canada's Law Firm

As the largest, truly full-service Canadian law firm, Borden Ladner Gervais LLP (BLG) delivers practical legal advice for domestic and international clients across more practices and industries than any Canadian firm. With over 800 lawyers, intellectual property agents and other professionals, BLG serves the legal needs of businesses and institutions across Canada and beyond – from M&A and capital markets, to disputes, financing, and trademark & patent registration.

blg.com

BLG Offices

Calgary
Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T 403.232.9500
F 403.266.1395

Ottawa
World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T 613.237.5160
F 613.230.8842

Vancouver
1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

Montréal

1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T 514.954.2555
F 514.879.9015

Toronto

Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749

The information contained herein is of a general nature and is not intended to constitute legal advice, a complete statement of the law, or an opinion on any subject. No one should act upon it or refrain from acting without a thorough examination of the law after the facts of a specific situation are considered. You are urged to consult your legal adviser in cases of specific questions or concerns. BLG does not warrant or guarantee the accuracy, currency or completeness of this publication. No part of this publication may be reproduced without prior written permission of Borden Ladner Gervais LLP. If this publication was sent to you by BLG and you do not wish to receive further publications from BLG, you may ask to remove your contact information from our mailing lists by emailing unsubscribe@blg.com or manage your subscription preferences at blg.com/MyPreferences. If you feel you have received this message in error please contact communications@blg.com. BLG's privacy policy for publications may be found at blg.com/en/privacy.

© 2026 Borden Ladner Gervais LLP. Borden Ladner Gervais LLP is an Ontario Limited Liability Partnership.