

Another Frantic COVID-19 Announcement on Tax Filing and Payment Extensions: version March 26/27, 2020

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[Our "Tax Take" on the 75 Percent Wage Subsidy](#)

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On March 26, 2020, the Government announced [further extensions](#) for specific tax and information returns (the “**Announcement**”). You can read our previous commentaries on older announcements [here](#) and [here](#). By now, you must have noticed the daily breaking news that Moody's Tax is obliged to report on, so much so that we likely qualify for the Journalism Tax Credit! :) As you know, we are such big supporters of this credit... [Not!](#)

In addition, on March 27, 2020, the federal government announced that the “wage subsidy” program would be improved, up to a 75 percent wage subsidy (from 10 percent). Further details on the new wage subsidy program are to be released in the coming days, and we will be certain to follow up on this. If this 75 percent subsidy is accompanied by a meaningful increase to the previous limits of \$1,375 per employee and \$25,000 per employer, this may indeed become a significant incentive for struggling employers to retain their employees. However, in a press conference, Finance Minister Morneau said that the wage subsidy is intended for “businesses that have suffered significant revenue loss.” Hopefully, this does not mean overly restrictive eligibility criteria since it is fair to say that virtually all small businesses in the country are feeling cash crunches and revenue declines unless you are in the business of manufacturing toilet paper and hand sanitizers.

With respect to the much-discussed extension to tax payment due dates, the government’s previous pronouncement was:

“The Canada Revenue Agency will allow all taxpayers to defer until after August 31, 2020, the payment of any income tax amounts that become owing on or after today and before September 2020. This relief would apply to tax balances due, as well as instalments, under Part I of the Income Tax Act. No interest or penalties will accumulate on these amounts during this period.”

There now appears to be a change to that policy in that all income tax amounts might have deferral – not just Part I tax. On its updated [webpage](#), the CRA now provides that:

“The deadline for businesses to pay any income tax amounts that become owing or due after March 18, 2020, and before September 1, 2020, has been extended to September 1, 2020.”

Does this mean all non-Part I taxes are extended, e.g. Part IV, Part IV.1, Part VI.1, Part XIII, Regulation 105 withholdings, etc.? Not sure. We hope further clarity will be provided to confirm whether the government is indeed expanding the payment extension beyond just Part I tax amounts.

Also, it is important to note that there is no extension for making *“payroll deductions payments and all related activities.”*

Concerning the extension to the filing of tax or information returns, the previous announcements left some matters unclear, such as:

- Are there any extensions for partnership returns (due March 31 for partnerships with individuals or trust as partners)?
- Are there extensions for information reporting returns, such as Form T1134 (due March 31, 2020, for the 2018 year), Form T1135, Form T1141, and Form T1142 (all due April 30 for individuals who are not self-employed)?
- Are trusts with non-calendar year ends, such as graduated rate estates, provided an extension (due 90 days after year-end)?

The Canada Revenue Agency (“**CRA**”) and the Department of Finance have now announced two major changes:

1. ... *unless otherwise noted, administrative income tax actions required of taxpayers by the CRA that are due after March 18, 2020, can be deferred to June 1, 2020. These administrative income tax actions include returns, elections, designations and information requests.*[\[1\]](#)
2. *The deadline for trusts, partnership and NR4 information returns are all extended to May 1, 2020.*

Concerning GST/HST, remittance of GST collected will be extended to June 30, 2020, for the following reporting periods:

- Monthly filers, for their February, March and April 2020 reporting periods;
- Quarterly filers, for their January 1, 2020, through March 31, 2020 reporting period; and
- Annual filers whose GST/HST return or instalments are due in March, April or May 2020, for amounts collected and owing for their previous fiscal year and instalments of GST/HST in respect of the filer’s current fiscal year.

Similar deferral to June 30, 2020, applies to customs duty and sales tax for importers.

The government also announced an extension to the deadline for filing a Notice of Objection. The government stated that *“for any objection request due March 18 or later, the deadline is effectively extended until June 30, 2020.”*

Our take on the new announcements regarding the filing and payment extensions

Accountants who were stressed out about filing partnership information returns and 2018 T1134s by March 31 would be very happy that these are now included in the filing extension list. This extra relief is welcome and better late than never

The government's ability to offer extensions to the filing due dates for income tax returns is most likely through the powers granted to it by subsection 220(3) of the Income Tax Act (the "**Act**"), which says that the Minister may, at any time, extend the time for making a return under the Act.

We are glad to see the extension on the filing of a Notice of Objection. While this should capture any objections that are due within the prescribed 90-day time period, we are uncertain whether this extension will also cover late-filed objection requests that ordinarily have a hard statutory deadline of one year plus 90 days time limit under subsection 166.1(7). To our knowledge, administrative extensions cannot override this statutory deadline. Taxpayers who are close to the one year plus 90 days limit should still file their request for Late-Filed Notice of Objection within this time limit to preserve their legal rights. There are also similar uncertainties around taxpayers' time limit to file their Notice of Appeal to the Tax Court of Canada.

The new announcements are a welcome change. However, our overall concern is how close to the filing deadlines some of these announcements were made, and how language in these announcements keeps evolving with no real clarity as to whether this was intentional or not. We appreciate the tremendous pressure that all levels of our government are facing, and commend them for their continuous (yet evolving) efforts. We hope that a complete document can be released that clarifies all the outstanding uncertainties that arise during the various announcements.

We are very concerned about the cash flow crunch that businesses will face later in the year when all of the income tax and GST/HST payments finally become due. Struggling businesses are likely not able to put funds aside in the next couple of months to eventually satisfy these obligations. The CRA does not look fondly on missed GST/HST payments, which can lead to personal liability to directors even for incorporated businesses under section 323 of the Excise Tax Act.

We look forward to the next version that will no doubt address many of our evolving concerns.

[1] Forms, receipts, documents, or prescribed information in respect of Scientific Research and Experimental Development and Investment Tax Credits were not extended.