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Introduction

The December 1992 economic and fiscal statement announced that legislation would be introduced for 1993 to provide Unemployment Insurance (UI) premium relief for small businesses.

Under the proposed legislation, eligible employers can receive a refundable UI premium tax credit of up to \$30,000.

Note

Employers who are members of an associated group on December 31, 1993, are treated as if they were one employer.

In this pamphlet, we give an overview of this proposed legislation, and we answer some questions about the proposed UI premium tax credit.

How much is the tax credit?

If you are an eligible employer, your credit is equal to the lesser of the following amounts:

- \$30,000; or
- the amount by which your 1993 share of UI premiums (up to \$60,000) is more than your 1992 share of premiums.

If your share of 1992 UI premiums is more than \$60,000, you cannot claim the credit.

Who can claim the tax credit?

As an employer operating a business during 1993, you are eligible for the UI premium tax credit if:

- your share of 1992 UI premiums, as well as the premiums for all employers with whom you were associated on December 31, 1993, was less than \$60,000; and
- your share of 1993 UI premiums, as well as the premiums for all employers with whom you were associated on December 31, 1993, was more than the 1992 UI premiums for you and all associated employers.

It doesn't matter if you operate your business as a proprietorship, partnership, trust, corporation, or any other type of organization.

In addition to employers who are operating a business, tax-exempt employers (other than the ones listed below) may be eligible for the credit.

Which tax-exempt employers are not eligible?

You are **not** eligible to claim the UI premium tax credit if you are exempt from tax under any of the following paragraphs of the *Income Tax Act*:

- 149(1)(a) to (d);
- 149(1)(h.1);
- 149(1)(o) to (o.2);
- 149(1)(o.4) to (s); and
- 149(1)(u) to (y).

Some examples of these tax-exempt employers are:

- public-sector employers, including all levels of government, government agencies, boards, commissions and tribunals, Crown corporations, as well as most school boards, school districts, and government health-care facilities;
- various trusts and corporations operated in connection with registered pension plans, deferred profit-sharing plans, registered retirement savings plans, registered retirement income funds, registered education savings plans, registered supplementary unemployment benefit plans, and retirement compensation arrangements;
- vacation pay trusts; and
- amateur athletic trusts.

If you aren't sure whether you are eligible to claim the UI premium tax credit, contact your district taxation office. You will find addresses and telephone numbers on the back cover of this publication.

Determining your UI premiums

When you determine your share of UI premiums for 1992 and 1993, only take into account UI premiums you were required to pay for **qualifying employees**.

If you are a tax-exempt employer, a **qualifying employee** is any employee. If you are not a tax-exempt employer, a **qualifying employee** is an employee whose remuneration you can deduct when you calculate your income from a business or property.

UI premiums you were required to pay for a person hired for your personal benefit (e.g., a gardener or housekeeper) are not eligible for the credit.

Rules for associated employers

If you were part of an associated group of employers on December 31, 1993, you have to calculate the tax credit on a group basis.

To determine if you were associated with another employer on December 31, 1993, the following rules apply:

- employers that are corporations that are associated with each other on December 31, 1993, for other income tax purposes are considered to be associated at that time for the purpose of the UI premium tax credit;
- an employer who is an individual is treated as a corporation all the voting shares of which are owned on December 31, 1993, by the individual; and
- an employer that is a partnership is treated as a corporation all the voting shares of which are owned on December 31, 1993, by the members of the partnership pro rata in the same proportion that the income or loss of the partnership is shared by them.

Associated employers have to allocate the UI premium tax credit among the group's members by using section 2 of the form called *Claim For UI Premium Tax Credit* in the space marked "Allocate credit amount (D) here."

Examples

- An employer who is an individual is associated with a corporation controlled by that individual.
- An employer that is a partnership is associated with another employer that is a management corporation the shares of which are owned by the partnership.
- An employer that is a partnership is associated with another employer that is a corporation the voting shares of which are held outside the partnership by all the members of the partnership.

For more information, see Interpretation Bulletin IT-64R3, *Corporations: Association and Control — After 1988*, which is available from your district taxation office.

Rules for successor employers

The proposed legislation also contains special rules, known as the **successor rules**. These rules deal with cases (see example on this page) where an employer, called the **successor**, carries on a business or part of a business that was previously carried on after 1991 by a former employer with whom the successor did not deal at arm's length, or with whom the successor would not have been dealing at arm's length if:

- where the former employer ceased to exist, the former employer was in existence at that time; and
- the former employer was controlled at that time by each person or group of persons who at any time in 1992 or 1993 controlled the former employer.

You are considered **not** to be dealing at arm's length with a former employer if you are related by blood, marriage, or adoption to that employer, or if you are related to the person or group of persons that controlled the former employer.

You are also considered **not** to be dealing at arm's length with yourself regarding shares you own in two or more companies.

For more information, see Interpretation Bulletin IT-419, *Meaning of Arm's Length*, which is available from your district taxation office.

The rules for associated employers, which treat individuals and partnerships as corporations whose shares are owned by the individual or the members of the partnership, also apply in determining when a successor is considered **not** to be dealing at arm's length with a former employer.

Under the successor rules, the former employer's share of UI premiums for 1992 and 1993 that relates to the business or part of a business that was acquired by the successor is added to the successor's share of UI premiums for 1992 and 1993 respectively, and is deducted from the former employer's share of UI premiums for those years.

Example

Mary operated a courier business from August 31, 1992, to August 31, 1993. On September 1, 1993, she transferred the business to Fred, her spouse. Fred continued to operate the business throughout the rest of 1993.

Under the successor rules, all of Mary's share of 1992 and 1993 UI premiums payable by her are considered to have been payable by Fred for the purpose of calculating both Mary's and Fred's entitlement to the UI premium tax credit.

Even though Mary actually paid UI premiums in 1992 and 1993 and may have otherwise qualified for the credit, she is not entitled to claim a UI premium tax credit, since she would not be considered to have had any increase in her UI premiums. The increase, if any, is attributed to Fred.

Fred will include all of Mary's share of UI premiums paid in 1992 in his share of UI premiums for 1992, and all of her share of UI premiums paid in 1993 in his share of 1993 UI premiums, to determine the amount of any credit he can claim.

How do you apply for the tax credit?

To get the UI premium tax credit, you have to file Form 93-098, *Claim For UI Premium Tax Credit*, with your 1993 T4 information return. We have included a copy of this form with this pamphlet. See the instructions on the form for details on how to complete it.

For employers who file by magnetic tape, please include a claim form along with your magnetic tape. If your T4 information return is filed on magnetic tape by a service bureau on your behalf, complete the *Claim For UI Premium Tax Credit* form and send it separately to your local taxation centre. You will find addresses and telephone numbers on the back cover of this publication.

Questions and answers

The following questions and answers deal with situations you may encounter as an employer. In each case, we assume that:

- the total 1992 employer's share of UI premiums is less than \$60,000, and is less than the 1993 employer's share of UI premiums; and
- all of the employees in the examples are qualifying employees.

I started carrying on a business on March 31, 1993, and did not carry on any business in 1992. Can I claim the credit?

Yes. As long as you are not a successor employer, your 1992 employer's share of UI premiums is nil.

I did not hire any new employees in 1993. Does this make me ineligible to claim the credit?

No. As long as your 1992 share of UI premiums is less than \$60,000, and is less than your 1993 share of premiums, you are entitled to claim the credit.

Does the credit affect the employee's share of UI premiums?

No. The withholding and remittance of UI employee premiums are not affected by this program.

How do I treat the credit for tax purposes?

Usually, you would reduce the amount of your 1993 expense for UI premiums by the amount of the credit. If you didn't do this, you have to include the credit in your income in the year that you received it.

Are registered charities and non-profit organizations eligible for the UI premium tax credit?

Yes, as long as the organization is not a public-sector employer.

In 1993, our organization obtained approval to operate a non-profit, crisis-intervention centre in Manitoba. Most of our funding comes from the province. Are we considered a public-sector employer?

Probably not. Your organization is not considered to be a public-sector employer just because a major part of its funding comes from a government source.

To be considered a public-sector employer, an organization has to be a municipality or a municipal or public body performing a function of government in Canada or a federal, provincial, or municipal-owned corporation, commission or association.

I bought an existing unincorporated business on February 10, 1993. Can I claim the credit?

Yes. However, if you bought the business from a person with whom you did not deal at arm's length, you have to calculate your credit using the rules for successor employers.

I bought the shares of a corporation on April 25, 1993. Am I considered to be a new employer for the purposes of calculating the credit?

No. The corporation is the employer. The fact that you acquired the shares in 1993 does not affect the calculation of the credit available to the corporation unless the acquisition changes the group of employers, if any, with whom the corporation is associated on December 31, 1993.

During 1992, I operated a retail bakery business as a proprietorship. On October 31, 1992, I sold the business as a going concern to an arm's-length party. I used the proceeds from the sale of that business to purchase a farm on January 10, 1993, which I am currently operating. Do I combine the UI premiums from my former bakery business and my farming business to calculate the credit for 1993?

Yes. The UI premium tax credit is based on the UI premiums paid or payable during 1992 and 1993 by each employer. Even though you operated two different businesses, you are only one employer. All of the employer's share of UI premiums paid or payable by you as an employer have to be considered to determine your entitlement to the credit.

I own all of the shares of a corporation that operates a shoe store. My husband owns 100% of a home-improvement business. Are we associated employers?

No. To be associated employers, you have to own at least 25% of the home-improvement business, or your husband has to own at least 25% of the issued shares of any class of the capital stock of the corporation that is operating the shoe store.

XYZ Co. owns all of the issued shares of A Co., and 55% of the shares of B Co. All of the corporations have employees. Are A Co., B Co., and XYZ Co. associated employers?

Yes. XYZ Co. controls both A Co. and B Co. Therefore, all three corporations are associated employers.

My brother and I each own 50% of a development company. Because of my mother's death in 1993, I inherited all of the issued shares of a construction company, and my brother inherited all of the issued shares of a paving company. Is the construction company associated with the paving company?

Yes. You and your brother are a related group that controls the development company. Also, because you own at least 25% of the issued shares of a class of shares of the development company, the construction company which you own is associated with the development company. Similarly, the paving company which your brother owns is associated with the development company.

Since the construction company and the paving company are both associated with the development company, they are associated with each other.

I am a partner in a law practice, and I am entitled to 65% of the income of the partnership. I also own a financial consulting business, and 51% of the voting shares of a corporation that manufactures computer components. Would the law practice, the financial consulting business, and the corporation be considered associated employers for the purposes of the UI tax credit?

Yes. For the purposes of determining whether employers are associated, the financial consulting business is considered a corporation, with all of the shares owned by you, and the law practice is considered a corporation, with 65% of the shares owned by you.

Since you own more than 50% of the financial consulting business, the law practice, and the corporation, you control each of the employers. Therefore, they are associated employers for the purposes of the UI premium tax credit.

I have owned and operated an unincorporated donut shop in the east end of the city since 1985. My brother worked for me until the end of 1992. In 1993, my brother and my wife set up a 50/50 partnership, and the partnership opened up a donut shop in the west end of the city. Is my donut shop associated with the partnership's donut shop for the purposes of the UI premium tax credit?

No. Even though you own the east-end donut shop and you are related to the related group that owns the west-end donut shop, you are not associated employers because you do not own an interest in the partnership, and your wife and brother do not own an interest in your business. To be associated, you have to own at least 25% of the partnership, or your wife and brother have to own at least 25% of your business.

I operated a tool and die business as a sole proprietor in 1992 and 1993. On July 15, 1993, I incorporated the business. Am I eligible for the UI premium tax credit? If so, how do I calculate the amount of the credit?

The new corporation has to file the claim for any UI tax credit. It is a successor employer that is carrying on a business previously carried on by a former employer (you) with whom it was not dealing at arm's length. The corporation includes your share of UI premiums for 1992 and 1993 in determining its employer's share of UI premiums for 1992 and 1993 respectively. Your share of premiums for both years is nil.

I was a minority (one-third) partner in a consulting business throughout 1992. On January 1, 1993, the partnership was dissolved. Juliette (the majority partner) and I divided the business between us, and carried on our businesses independently throughout 1993. How do the successor rules affect us?

As long as your dealings with the partnership were at arm's length, you are not affected by the successor rules. Therefore, you don't have to take into account the UI premiums the partnership paid when you calculate your credit for 1993 for your new business.

However, **your partner** is considered to be a successor, since she was carrying on a part of a business formerly carried on by the partnership which, if it had continued to exist, she would not be dealing with at arm's length. To determine her entitlement to any UI premium tax credit for 1993, she has to include the portion of the partnership's share of UI premiums payable for 1992 that relate to the part of the business transferred to her on January 1, 1993.

On June 30, 1993, my father died, and I inherited his restaurant business that he had operated as a sole proprietorship. Do I qualify for the credit? If so, would the successor rules apply in determining my credit?

Yes. You are carrying on a business that was carried on after 1991 by an employer with whom (if he were still alive) you would not be dealing at arm's length. Therefore, you have to include your father's share of UI premiums for 1992 and 1993 that relate to the restaurant business when you calculate your share of UI premiums for those years.