Workers' Compensation Board (WCB) Awards

If an employee cannot work because of an employment-related injury, the WCB may award benefits as compensation for lost wages.

New policy for 2000

Reporting requirements

As a result of a 1997 Tax Court of Canada decision, an employer who chooses to maintain an employee on salary while waiting for a decision on a WCB claim will **no longer** be allowed to retroactively reduce earnings in the current year or amend a previous year T4 slip. We have also changed the way employers will report top-up amounts and WCB advances. Our new policy will apply to:

- **self-insured employers** who are directly liable for the cost of amounts that the WCB awards to employees; and
- **regular employers** who are not directly liable for the cost of amounts that the WCB awards to employees.

Implementation dates

Starting January 1, 2000, the following instructions will replace the "Workers' Compensation Board (WCB) awards" area in Chapter 5 of the 1999-2000 employers' guide called *Payroll Deductions (Basic information).* **However, when they complete any 1999 T4 slips that are due February 29, 2000, employers must follow the current instructions in the 1999-2000 guide called *Filing T4 and T4F Slips and Summary Forms*.**

Employee salary continued

Before January 1, 2000, an employer who continues to pay salary while waiting for a decision on a WCB claim has to make tax, CPP, and EI deductions at source. If the claim is accepted, either in the same year or a later year, the employer is allowed to adjust the current-year payroll or amend previous-year T4 slips by reducing the amount in box 14 by the amount of the award, and by adjusting the tax, CPP, and EI deducted to correspond with the reduced income.

Starting January 1, 2000, an employer who chooses to maintain an employee on salary while waiting for a decision on a WCB claim will **no longer** be allowed to reduce earnings in the current year or amend a previous-year T4 slip. The 1997 Tax Court decision confirmed that an employer who continues to pay salary and withhold tax, CPP, and EI cannot make retroactive adjustments to income and deductions and call them WCB payments. As a result, the employee will have to report, in the year it is received, the salary he or she receives while waiting for the claim decision.

> **Note**
> Employers will not be able to recover their share of the CPP and EI contributions.

The T4 slip and T5007 slip, *Statement of Benefits*

In the year that the WCB claim is accepted, the employee will receive a T5007 slip from the WCB. The employee will report the amount shown on the T5007 slip as income on his or her T1 income tax return for that year and claim the corresponding deduction. The employee will also be allowed to deduct the amount of the WCB award repaid to the employer that was included in income in a previous year, as **other employment expenses (repayment of salary or wages)**. Any unused amount becomes a **non-capital loss** and may be deducted against income from all sources for the three previous years—any remaining loss is carried forward and can be deducted against income for the following seven years.

For the employee to claim the other employment expense deduction, the employer will complete a T4 slip. On the T4, the employer will enter a special code in the "Other information" area to report the amount received by the employer from the WCB as an offset against the previously paid salary. Self-insured employers who cover the cost of the claims themselves will follow the same procedure. If the award is used only to offset loans or advances, the employer will not have to report his amount.

Note
In 2000, we will issue the T4 code and reporting instructions for the February 28, 2001, filing date.

Top-up amounts

A top-up amount is an amount an employer pays to an employee, in addition to any advance, while waiting for a WCB award. Since a top-up amount is paid to an employee to increase the compensation paid by a provincial authority, the amount is excluded from insurable earnings. A top-up amount will be subject to tax and CPP, and will be reported on a T4 slip at year end.

Advances or loans

An employer will still be allowed to make an advance or loan to an employee while waiting for a decision on a claim, and we will not consider this amount to be employment income. As a result, the employer will not have to deduct tax, CPP, and EI at source, and no T4 slip will be issued at year end. The advance or loan will be offset when the claim is accepted. We will not consider as a taxable benefit any interest that accumulates on advances while waiting for a claim decision.

Advances or loans not repaid

If an advance or loan is not repaid (or offset in the case of a self-insured employer) in the year the WCB claim is accepted or denied, we will consider the employee to have received a benefit from employment in that year. The amount of the loan or advance will have to be reported on a T4 slip with tax, CPP, and EI withheld. If the claim is denied, and the employer converts the advance or loan to sick leave, this amount will have to be reported on a T4 slip with tax, CPP, and EI withheld.

Example
ABC construction loans Robert $10,000 while waiting for a decision on a WCB claim. The claim is denied and ABC construction chooses to offset the loan by paying Robert $20,000 in sick leave for the period in question. ABC will have to withhold tax, CPP, and EI on the total sick leave payment of $20,000. Robert will have to use the net pay to repay the $10,000 loan to ABC construction.

If an advance or loan is considered to become employment income or is converted to sick leave, tax will have to be withheld unless there are not enough other earnings from which to withhold the tax. However, CPP and EI will still have to be deducted at source. If withholding the tax causes undue hardship, the employee can contact any tax services office to ask that less tax be deducted.

Advances by a third party

If an insurance company pays an employee's salary, the insurer will issue a T4A slip. If the payments are later repaid by the WCB or by the employee, the insurance company will issue a receipt (letter) to the employee that will allow him or her to claim a deduction for repayment of salary or wages.

Adjustment period for new WCB claims

In many cases, an employer prepares payroll cheques in advance. As a result, it may not always be possible to place an employee on a loan or advance system immediately after he or she files a claim. If this happens, we will allow the employer a reasonable period (normally one pay cycle) to adjust the payroll records to a loan basis.

Transition period for 1999-2000

Employers have to implement this new policy on January 1, 2000. Employees who have outstanding notices of objection for 1997 or later years will have their T4 slips reinstated to the gross amounts and their T1 returns adjusted to reflect these new rules. We will consider, on a case-by-case basis, any outstanding or new complaints that have not been appealed before 2000. When we do this, we will take into account the union or employment contract currently in force as well as our guidelines.

Any WCB claims made before December 31, 1999, that are decided after January 1, 2000, will usually fall under the new rules; that is, no adjustment to previous-year T4 slips will be allowed. In special situations—where employment contracts or union agreements specify how adjustments to tax, CPP, and EI are formulated, and where no employee complaints are received—employers will be allowed to follow the old rules. All WCB claims filed after January 1, 2000, will fall under the new rules, regardless of any existing agreement between the employer and the employee.

Note
In Quebec, workers compensation benefits are administered by the Commission de la santé et de la sécurité au travail (CSST). CSST legislation is different from WCB legislation. For more information on CSST, get the *Guide for Employers* from your ministère du Revenu du Québec office.

How to treat WCB payments in certain situations

Employer continues to pay regular wages

Example
John is injured at work on July 10, 2000. He continues to be paid his regular wages until February 6, 2002, when the WCB accepts his claim. The employer is reimbursed by the WCB or if he is self-insured, the claim is confirmed.

Results

- All wages paid in 2000, 2001, and 2002 would be reported in the appropriate year with tax, CPP, and EI withheld.
- In 2002, the year of the award, the employer would **not** be allowed to adjust box 14 or to reduce the tax, CPP, and EI withheld in 2000, 2001, or 2002.
- When completing the T4 slip for 2002, the employer would use the special code under "Other information" to report the amount of the WCB award for the three years.
- When John files his 2002 T1 return, he would claim this amount as a deduction for other employment expenses (repayment of salary or wages).
- If John does not deduct all of this amount on his 2002 return, the remaining amount becomes a non-capital loss that he can deduct against income from all sources for the three previous years—any amount that remains after that he can carry forward and deduct against income for the following seven years.

Employer pays a top up and, in addition, advances or loans the employee amounts equal to the anticipated WCB

Example
Mary is injured on April 2, 2000, and is away from work until June 6, 2001. Her employment contract stipulates that she would continue to receive her net pay.

Results

- Her employer would make advances or loans equal to the anticipated WCB award. The amount of these advances would not be reported to us and would not be reported on a T4 slip at year end.
- Any top-up amounts paid to ensure that Mary's normal net pay was maintained would be considered income in the year they were paid and would be subject to tax and CPP. The amounts would **not** be subject to EI premiums.
- In 2001, when the claim is decided, her employer would offset the amount received from the WCB against the loans made in the following manner:
  - If the amounts were equal, no amount would be recorded in the "Other information" area of the T4 slip.
  - If the loans were more than the amount of the award, the difference would be considered employment income; Mary's employer would report this income on a T4 slip with tax, CPP, and EI withheld. No entry would be required in the "Other information" area.
- If the claim is disallowed, the entire loan would become taxable in the year the claim is disallowed, and tax, CPP, and EI would have to be remitted.

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