

# Tax Impacts of the Pandemic on Employers and Employees

January 20, 2021

## Everyone's Talking About It

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The COVID-19 pandemic has changed the way work is organized in a number of ways. For example, many employers are requiring employees to work from home, raising questions about deductible expenses for employees and the treatment of reimbursements, allowances and other benefits that may be provided for this purpose. As well, this situation creates tax compliance obligations for employers. In particular, the filing of T4 slips in this context raises questions.

Here is a summary of the applicable rules and relief announced to date, including those for the purpose of deducting home office expenses and with respect to benefits and allowances provided by the employer.

### EMPLOYMENT EXPENSES

For salaried employees,<sup>1</sup> deducting expenses is the exception. Only those expenditures specifically provided for in the Act are permitted, within the limits set out therein.

#### Employment contract

Generally speaking, employees can deduct employment expenses on their income tax return if their employment contract requires them to pay the expenses. This employment contract does not have to be in writing, but the employer and employee must agree to and understand the terms and conditions.

Accordingly, if there is an agreement allowing or obliging an employee to work from home, the employee will be able to deduct some expenses, in accordance with the conditions and within the limits set out below.<sup>2</sup>

### Employer's declaration

Employees can only deduct expenses if they obtain a duly completed and signed form T2200 – *Declaration of Conditions of Employment* (federal) and form TP-64.3 – *General Employment Conditions* (Québec) from their employer for the year in question.

By signing the form, the employer certifies that the employee was required to use home office space and pay expenses in this regard, specifying any amounts reimbursed for such expenses.<sup>3</sup>



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<sup>1</sup> Special rules apply to expenses that may be deducted by commission employees whose employment relates to the sale or negotiation of contracts for the employer. This document describes the expenses that are deductible by salaried employees; it does not analyze the rules applicable to self-employed workers (entrepreneurs).

<sup>2</sup> Employees who voluntarily choose telework, with the employer's agreement and on terms and conditions approved by the employer, will be considered to use their home for the purposes of employment and to pay the related expenses under the terms of this agreement (CRA, Views 2011-0394321E5 and Revenu Québec, interpretation letter 19-048516-001).

<sup>3</sup> Form T2200 / TP-64.3 also allows the employer to certify other expenses that employees are required to incur for the purposes of their employment (e.g. vehicle expenses).

Employees are responsible for compiling and reporting their employment expenses and for maintaining records to support their claim;<sup>4</sup> employers have no responsibility in this respect.

As an administrative practice, the CRA and Revenu Québec do not require employees to attach form T2200 / TP-64.3 to their income tax return. However, employees must keep these forms, as well as all records supporting the expenses claimed, in order to be able to submit them upon request for audit purposes.<sup>5</sup>

### Relief for 2020

For 2020, two options are available to employees who worked from home due to COVID-19:<sup>6</sup>

- A [temporary flat rate method](#) whereby employees will be able to claim a deduction of \$2 for each day they worked from home (max. \$400 for the year). These employees will not have to obtain forms T2200 and TP-64.3 from their employer or track their expenses in detail in order to claim this simplified deduction;<sup>7</sup>
- The detailed method, for employees who obtain from their employer the completed and signed form T2200 or the new simplified form [T2200S - Declaration of Conditions of Employment for Working at Home Due to COVID-19](#).<sup>8</sup>

In Quebec, the [new 2020 version of the TP-64.3 form](#) includes a section allowing the employer to confirm that the employee was required to telework due to

COVID-19. The online service [Access to order pre-filled TP-64.3 forms online service](#) is available to facilitate the production of a large number of forms that employers could have to send to teleworkers.<sup>9</sup>

### HOME OFFICE

#### Conditions

One of the following conditions must be met for employees to deduct home office expenses:

- The workspace is where the employee mainly (more than 50% of the time) does work;
- The employee uses the workspace only to earn employment income and uses it on a regular and continuous basis to meet clients, or other people in the course of employment duties.

Whether employees perform their work mainly in their home is a question of fact, taking into account all the circumstances of each situation. The common meaning of “mainly” is “more than 50%”. Accordingly, this condition will generally be satisfied if an employee works more than 50% of normal working hours from home on an annual basis.

#### Relief for 2020

The CRA will consider this condition satisfied if the employee has worked from home more than 50% of the time for a period of **at least 4 consecutive weeks in 2020** due to the COVID-19 pandemic.

Revenu Québec stated that the “work mainly” at home criterion should generally be met in the context of the pandemic.<sup>10</sup>

### Deductible expenses

In computing income for a taxation year, employees may deduct an amount for home office expenses and supplies consumed directly in the performance of their duties,<sup>11</sup> if their contract of employment requires them to pay such expenses and, where applicable, to obtain such supplies.<sup>12</sup>

They may not receive any reimbursement from their employer in this regard and the expenses cannot exceed employment income for the year.<sup>13</sup>

Employees using the temporary flat rate method will not have to determine their expenses eligible for the Home Office Expense Deduction in 2020. They will have to calculate these expenses if they use the detailed method, and make sure they separate the use of the premises for work and non-work (personal) use. For employees incurring modest expenses, the simplified method will normally be advantageous.

#### Office expenses

Deductible office expenses include the portion of costs associated with maintaining an office space, such as electricity, heating and maintenance costs. The utility portion (electricity, heating and water) of condo fees is also deductible.<sup>14</sup>

<sup>4</sup> The record must include supporting documents for the expenses (invoices, monthly statements, etc.). Employees must complete form T777 – *Statement of employment expenses* (form TP-59 in Quebec) to claim the deduction of these expenses, when filing their income tax return. For the year 2020, a simplified [T777S form](#) is available

<sup>5</sup> Generally, taxpayers are required to keep their records and supporting documents (paper or electronic) for at least six years after the end of the taxation year to which they relate.

<sup>6</sup> There is an online calculator on the CRA's [Home office expenses for employees](#) portal and on the [Ministère des Finances du Québec](#) site. These tools can be used to determine the most advantageous method for the employee.

<sup>7</sup> Revenu Québec confirmed its intention to adopt this simplified method in a [press release issued on December 16, 2020](#).

<sup>8</sup> This relief allows the employer to complete a simplified version of the T2200 form. The employee will have to calculate his deduction using the usual method and keep the supporting documents to substantiate his claim, whether he has obtained the simplified or regular version of form T2200 from his employer. CRA and Revenu Québec will accept electronic signatures for T2200, T2200S and TP-64.3 forms in 2020.

<sup>9</sup> See Revenu Québec's [FAQ for Businesses](#) for details on employers' obligations and the applicable terms for producing these forms.

<sup>10</sup> See the Revenu Québec's [FAQ for Individuals](#). No specific period is mentioned to satisfy this condition.

<sup>11</sup> Expenses paid for the salary of an assistant or replacement are also deductible if the employment contract explicitly or implicitly provides for it.

<sup>12</sup> A telework arrangement may implicitly require the employee to provide and pay for an office at home.

<sup>13</sup> Therefore, it is not possible to realize a loss by deducting home office expenses or deduct these expenses from income other than employment income. Expenses not deducted in a given year can be deducted the following year against income from the same employer.

<sup>14</sup> Regarding deductible condominium fees, see note 1 in the "Allowable Expenses" section on the CRA's [Home office expenses for employees](#) portal and Revenu Québec, [interpretation letter 15-025912-001](#) (June 2, 2016).

If employees own their home, the following expenses are **not deductible** as home office expenses:<sup>15</sup>

- Property taxes;
- Home insurance premiums;
- Mortgage interest.

Additionally, these employees cannot claim capital cost allowance on the building or deduct an amount for the rental value of the office space.

Employees who rent the home in which the office space is located can deduct the rental costs for the office space.

The percentage of deductible home office expenses must be determined on a reasonable basis, such as the area of the office divided by the total finished area of the home (including hallways, bathrooms, kitchen, etc.).

Generally speaking, lighting fixtures (light bulbs, fluorescent tubes, etc.), cleaning products and minor repairs (paint and routine maintenance repairs) that apply only to the home office space are fully deductible, unless the space is also used for other purposes, in which case the expenses are deductible in proportion to the use made of the space.

### Office supplies

According to the tax authorities, a supply is considered to be “consumed” and therefore deductible as a home office expense if its use destroys its substance or renders it unusable. The supply must therefore have a finite use such as paper, pencils or ink cartridges. However, the cost of purchasing or renting office furniture or computer equipment (printer, mouse, keyboard, etc.) is not deductible, given the reusable nature of these goods.

### Telephone and internet costs

Generally, the tax authorities do not consider monthly costs for basic

telephone service (landline or cell phone) or unlimited Internet access to be “supplies consumed” in the course of employment.<sup>16</sup>

In general, these fees will be deductible to the extent that they are charged on a per-use basis. This will include long-distance calls and cell phone minutes that are directly attributable to employment.

The CRA has indicated that it would accept the deduction of expenses for a cell phone used exclusively for employment purposes.<sup>17</sup>

### Extended Deduction of Internet Expenses

The list of expenses eligible for the home office deduction has been expanded to include reasonable home internet access costs.<sup>18</sup> Connection fees and modem or router rental costs are excluded.

### GST and QST

Deductible employment expenses include any GST/HST and QST paid on these expenses.

If the employer is a registrant for GST/HST and QST purposes, the employees may be entitled to a refund of the taxes paid on taxable expenses that are deductible in computing their employment income.<sup>19</sup>

Any reimbursement which employees received in this regard must be added to their income in the year in which it is received.

### REIMBURSED EXPENSES AND ALLOWANCES

An employer may compensate employees for expenses related to work, either by paying them an allowance or by reimbursing them for expenses incurred, upon presentation of supporting evidence.

In general, the payment of an allowance or reimbursement of personal expenses is considered a benefit. The employer may

also provide benefits to employees, such as allowing them to use property for personal purposes at no cost. If an employer provides benefits to its employees, the employer must determine whether the benefit is taxable and, if so, calculate its value, in order to include it in the employee's income and make the relevant withholding.

### Allowance

An allowance is an amount paid by an employer to an employee to compensate expenses incurred in connection with the office or employment. There does not necessarily have to be a relation between the amount, the nature of the actual expenses incurred by the employee and the allowance received.

An allowance to compensate employees for expenses incurred in connection with their work<sup>20</sup> will be considered a taxable benefit, whether or not the employee is otherwise entitled to deduct expenses in this regard.

### Expense reimbursement

The amount that the employer reimburses an employee for the purchase of supplies used in the course of employment will not be taxable unless the reimbursed expenses have a personal component for the employee. For example, the reimbursement of items such as furniture and computer equipment would be considered a taxable benefit to the employee, since the employee will have acquired property of a durable nature that can be used outside of the duties of employment.

### Relief due to the pandemic

In the exceptional context related to COVID-19, the CRA and Revenu Québec consider that the reimbursement, upon presentation of supporting documents,<sup>21</sup> of up to \$500 to offset the cost of acquiring personal computer and office equipment

<sup>15</sup> Commission employees may deduct a portion of insurance premiums and property taxes as a home office expense. Self-employed individuals may be entitled to a wider range of expenses.

<sup>16</sup> See in particular Revenu Québec, Interpretation letter 19-046430-001 (September 23, 2019).

<sup>17</sup> CRA, Views Doc 2016-0634351E5 (August 22, 2016).

<sup>18</sup> See the list of eligible expenses on the CRA's [Home office expenses for employees](#) portal and Revenu Québec's [FAQ for Individuals](#).

<sup>19</sup> For GST/HST purposes, the employer must not be a listed financial institution. The employee can claim this rebate on his or her income tax return using form GST370 – *GST/HST Rebate*

*Application* and form VD-358 – *Employee QST Rebate*.

<sup>20</sup> For example, to cover home office expenses or transportation or parking costs.

<sup>21</sup> This relief also applies if the employer pays these goods directly but it does not apply to allowances that may be paid for such purposes.

required to enable employees to perform their duties at home is not a taxable benefit to the employee.<sup>22</sup>

#### Expenses covered by the relief (maximum \$500 per employee)

- Computer equipment (e.g. printer, monitor)
- Office equipment (e.g. chair, worktable)

### Transportation and parking

Expenses related to commuting between employees home and their regular place of employment and parking at that place of employment are generally considered personal expenses. Any reimbursement, allowance or other compensation provided by the employer in this regard is therefore usually considered a taxable benefit.

#### **Pandemic relief**<sup>23</sup>

In the exceptional context of the pandemic, allowances to cover the following costs will not be considered a taxable benefit:<sup>24</sup>

- **Additional** commuting costs incurred to minimize the risk of exposure to COVID-19 for employees who are required to travel to their regular place of employment to perform their duties;
- Employees commuting costs to travel to their place of employment to pick up equipment enabling them to perform their employment duties at home.

Similarly, where a regular place of employment is closed due to COVID-19, the CRA will not consider an employer-provided parking space to be available at that place of employment for use by an employee. Therefore, employer-provided parking will not result in a taxable benefit.

Employers are required to keep appropriate records to reflect the

reasonableness of the amounts paid and employees are required to keep records of their use of motor vehicles in this context.

### AUTOMOBILE BENEFIT

Generally, the taxable benefit for the use of an employer-supplied automobile includes a standby charge and a benefit for operating costs.<sup>25</sup>

#### Standby charge

Regular standby charges are 2% per month of the original cost of the vehicle to the employer or two-thirds of the lease payment.

The benefit may be reduced if employees use the automobile primarily (more than 50% of the time) for business purposes and kilometres for personal use are not more than 1,667 per month (total of 20,004 kilometres a year). Regular standby charges will then be adjusted based on personal-use kilometres.

#### Operating cost benefit

Under the general method, the operating cost benefit is \$0.28<sup>26</sup> per kilometre for employees' personal use. If employees use the vehicle primarily for business purposes, before the end of the year, they can ask their employer to calculate this benefit using the optional method. In this case, the benefit is equal to 50% of the standby charge.

#### **Relief due to the pandemic**<sup>27</sup>

For 2020 and 2021, employees can use their 2019 usage to determine whether a vehicle is used primarily for business purposes.<sup>28</sup> Employees would therefore continue to benefit from the reduced standby charge benefit and the optional method for the operating cost benefit, as applicable.

Employees who qualify for the optional method because of their 2019 automobile

usage do not have to notify their employer that they wish to use the optional method to determine the operating cost benefit for 2020 and 2021. Their employer must determine the benefit using both methods and use the lower amount.

### T4 SLIPS

#### New codes for 2020

For the 2020 taxation year, employers will be required to use the following new codes to report employment income and retroactive payments **made to an employee** during the given period in the "Other Information" area at the bottom of the T4 slip:

- code 57: Employment income – March 15 to May 9;
- code 58: Employment income – May 9 to July 4;
- code 59: Employment income – July 5 to August 29;
- code 60: Employment income – August 30 to September 26.

**Example:** If employment income for the period of April 25 to May 8, 2020 was paid on May 14, 2020, the employer must use code 58.

This requirement applies to all employers, whether or not they have claimed the Canada Emergency Wage Subsidy (CEWS) or another wage subsidy. This information will be used by CRA to validate Canada Emergency Response Benefit (CERB) payments made during these periods.

Don't hesitate to contact your Raymond Chabot Grant Thornton consultant who can help you identify and apply the measures applicable to your situation.

For more information, visit us at [rcgt.com](http://rcgt.com).

<sup>22</sup> See the [COVID-19 – Employer-provided benefits and allowances](#) section of CRA's website, where it is indicated that this policy applies from **March 15 to December 31, 2020**. Revenu Québec's position is published in the [FAQ for Businesses](#).

<sup>23</sup> Revenue Quebec confirmed its intention to harmonize with these measures during a recent meeting with the Tax Executive Institute. However, as of the date of publication, these measures have not been published on its website.

<sup>24</sup> This relief, effective from March 15 to December 31, 2020, covers amounts paid or reimbursed by the employer and reasonable allowances to cover these expenses. It also extends to the use of employer-provided vehicles for such travel. For employees who are required to travel to work to perform their duties, this relief applies if the employee was not already using an employer-provided vehicle to commute to work prior to the COVID-19 pandemic.

<sup>25</sup> For more information on calculating employees' automobile benefit, see the [Tax Planning Guide](#).

<sup>26</sup> Rate for 2020 (\$0.27 in 2021).

<sup>27</sup> See the December 31, 2020 [Backgrounder](#) published by Finance Canada and Revenu Québec's [FAQ for Businesses](#).

<sup>28</sup> Only employees who have a vehicle provided by the same employer as in 2019 are eligible for this option.