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P.E.I. EMPLOYMENT STANDARDS REVIEW – SIGNIFICANT CHANGES RECOMMENDED

By: Theo Anne Opie, LL.B. © CCH Canadian Limited.

In December 2006, the Prince Edward Island Government announced that it would be reviewing the *Employment Standards Act* and Regulations and the *Youth Employment Act* to ensure that the laws continue to meet the needs of the workers in the province. At the end of January 2006, the Prince Edward Island Government released a consultation paper asking for submissions from the employer and employee communities, community organizations, as well as individual citizens about how the existing legislation can be improved. The consultation paper was summarized in the February 2006 issue of *PaySource*, No. 128.

Three main areas of concern were identified by the Review Panel. These concerns are: employee entitlements or benefits; access to these entitlements or benefits; and compliance with the legislation.

The Report of the Review Panel, made public this March, contained the following summary of recommendations as related to the three areas of concern.

Recommendations for Legislative Change

The following represents the Review Panel's unanimous recommendations for amendments to improve the Prince Edward Island *Employment Standards Act* and Regulations:

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Improvements to Basic Entitlements

The report recommends the following changes to the basic entitlements under the Act:

- a shortened work-week: from the current 48 hours down to 44 hours (effective one year after proclamation of the Act);
- limiting variances to the standard work-week;
- one additional paid holiday (Thanksgiving Day);
- three weeks of paid vacation after eight years of employment;
- additional 5unpaid weeks of maternity/parental/adoption leave if child is seriously ill;
- three days of paid sick day after 10 years of employment;
- one day of paid bereavement leave;
- group termination requiring notice of eight weeks;
- termination only for just cause after 10 years of continuous employment;
- meeting/training pay;

- continuity of employment when business is sold; and
- banking of overtime hours.

Improving Access to Entitlements

The Review Panel recommends improving access to entitlements by the following amendments:

- maternity/parental leave if employee works any 20 weeks of past 52 weeks;
- sick/family leave after three months instead of six months;
- combining sick and family leave and increasing total annual leave to seven days;
- qualification period for paid statutory holiday reduced from 15 to 10 days of past 30 calendar days;
- more entitlements for salespersons as well as for agriculture and aquaculture employees; and
- expanding the definition of family member in order to expand employee access to EI-funded compassionate care leave.

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Improved Compliance

Improved compliance with the legislation will result from the following recommendations:

- posting of information about *Employment Standards Act* in all workplaces;
- penalties for repeat offenders;
- compliance inspections;
- using collection agencies to collect unpaid pay;
- equal pay for equal work (a reinstatement of the *Human Rights Act*);
- increased protection for complainants; and
- directors' liability for unpaid wages.

Recommendations Regarding Other Legislation

Recommended changes to the minimum wage provision concerns criteria, public input, and differential wage rates.

It is recommended that provisions of the *Youth Employment Act* (with modifications) be incorporated into the *Employment Standards Act* and the *Youth Employment Act* be repealed.

Administrative Changes, Clarifications, and Form of Review Panel Report

Administrative Changes and Clarifications

A number of administrative amendments to the Act will clarify the meaning and intent of the legislation. Examples include the following:

- Clarifies payment options for employers by permitting direct deposit of pay into an account at a bank of the employee's choice;
- Adds gross vacation pay and pay in lieu of notice to items to be included on an employee's pay statement;
- Specifically permits delivering of an electronic pay statement where the employer provides the employee, through the workplace, confidential access to the electronic pay statement, and a means of making a paper copy of that pay statement;
- Clarifies that call-in pay is required for work-related activities, which includes the attending of meetings, orientation or training events conducted or arranged by the employer and that it is to be paid at the employee's regular rate of wages;
- Provides for court leave for employees summoned to serve on a jury, selected to serve on a jury, or served with a summons to attend at the hearing of an action, application, or proceeding as a witness;
- Clarifies employee rights on re-employment after leaves of absence, i.e., maternity, bereavement, compassionate care, etc.;
- Adds a requirement that all wages are treated similarly to vacation pay and are deemed to be held in trust for the employee by the employer; and
- Increases existing fines for violation of the Act

Form of Review Panel Report

Of interest, is the form of the Review Panel's Report. Rather than just listing/grouping recommendations and/or providing support for the positions recommended, the Review Panel sets out a complete draft amending Bill. If the

government of Prince Edward Island accepts the draft legislation in its current form with little or no amendment, the new employment standards provisions could be law early this summer. Subscribers will be kept informed of future developments.

Hot News Items

2007 Budget Season

Budget season is upon us once again. To date, the following provinces/territories have issued their 2007 Budgets. Highlights of the Budgets relating to payroll are reproduced below. As the other provinces/territories issue their Budgets, they will be added to the list.

2007 Federal Budget

The 2007 Federal Budget of March 19, 2007, presented by Finance Minister James M. Flaherty, contained the following measures related to Payroll.

Personal Income Tax Credits

Spousal/Common-law/Equivalent Credit

The income tax system currently includes personal credits to allow individuals to receive a basic amount of income on a tax-free basis. These include a credit for a basic personal amount of \$8,929 for 2007, as well as a credit in respect of a spouse or common-law partner, or a wholly dependent relative, based on an amount of \$7,581 for 2007. The amount upon which these credits is based is required to be reduced on a dollar-for-dollar basis by the dependant's net income in excess of a threshold (\$759 for 2007).

Budget 2007 proposes to increase the amount upon which the spouse or common-law partner and wholly dependent relative credits are calculated by \$1,348, thus matching the basic personal amount, with a corresponding elimination of the threshold above which the dependant's net income must be taken into account. These changes will take effect beginning in 2007 and will, in 2007, provide individuals with additional personal income tax relief of up to \$209.

For the 2008 and subsequent taxation years, these personal credit amounts will be increased by the same amounts that are currently legislated for the basic personal amount. Specifically for 2008, these credit amounts will be increased by indexation plus an additional \$200 and,

for 2009, increased by indexation plus the greater of \$600 and the amount required to raise these personal credit amounts to \$10,000. The credit amounts will be indexed in the usual manner for subsequent taxation years.

See Commentary at ¶25,117.

Public Transit Passes Credit Enhanced

Budget 2006 introduced the public transit tax credit to encourage individuals to make a sustained commitment to public transit use by providing a credit for the purchase cost of monthly public transit passes, or passes of a longer duration. This measure, widely welcomed by Canadians, will be strengthened under Budget 2007 as a means to continue to reward those who make a sustained commitment to public transit.

Some transit authorities are planning to replace their monthly passes with user-friendly and innovative cost-per-trip fare products that will help improve accessibility to transit. To ensure that individuals continue to be encouraged to use public transit, Budget 2007 proposes to extend the public transit tax credit to include electronic fare cards that are used for at least 32 one-way trips in a monthly period. Transit authorities will need to track and certify usage and cost.

Further, the public transit tax credit will be provided where four weekly passes are purchased consecutively. This change will also help low-income individuals who may not be able to afford the financial commitment of a monthly pass to take advantage of the credit.

These changes will be effective for the 2007 tax year. It is estimated that these measures will reduce federal revenues by \$10 million in 2007/08 and \$20 million in 2008/09.

New Child Tax Credit

Budget 2007 proposes to introduce a new non-refundable child tax credit for parents based on an amount of \$2,000 (indexed) for each child under the age of 18 years at the end of a taxation year. The tax credit will be calculated by reference to the lowest personal income tax rate for the taxation year (i.e., 15.5 per cent in 2007). This new tax credit will take effect beginning in 2007, and will provide personal income tax relief of up to \$310 per child.

Where the child resides together with the child's parents throughout the year, either of those parents may claim the credit. In other cases, the credit will be claimable in respect of a child by the parent who is eligible to claim the wholly dependent person credit for the year in respect of a

child (or who would be so eligible if that child were the parent's only child).

For the year of the birth, adoption, or death of a child, the full amount of the credit will also be claimable following the rules above.

Any unused portion of the credit will be transferable by a parent to the parent's spouse or common-law partner.

See Commentary at ¶25,117.

Other Measures

Northern Residents' Deduction

Individuals who live in prescribed areas in northern Canada for at least six consecutive months beginning or ending in a taxation year may claim the northern residents' deduction for those years. The northern residents' deduction is comprised of two amounts: a residency deduction of up to \$15 per day, plus a deduction to offset taxable benefits in respect of up to two employer-paid vacation trips per year and an unlimited number of employer-paid medical trips. The amount that a taxpayer may deduct depends on whether the taxpayer resides in the Northern Zone (which is generally the most isolated) or the Intermediate Zone (which is generally less isolated). Residents of the Northern Zone are eligible for the full deduction, while residents of the Intermediate Zone are eligible for a half deduction.

Budget 2007 proposes to include the District Municipality of Mackenzie, British Columbia, in the Intermediate Zone for the purposes of the northern residents' deduction.

This amendment will apply to the 2007 and subsequent taxation years

The 2010 Games in Vancouver: Non-Residents' Tax

Canada, like other countries, generally taxes non-residents on their income from sources in this country. A non-resident's employment income, business income, and property income (dividends, rents, royalties, interest, etc.) are all subject to Canadian income tax if they are earned in Canada. As well, goods that are imported into Canada may be subject to customs duties, excise taxes and GST/HST.

On July 2, 2003, Vancouver was chosen by the International Olympic Committee (IOC) as the Host City of the 2010 Winter Olympic and Paralympic Games (2010 Games).

Many of the best athletes from all over the world will visit Canada for the Games, along with support staff, media and others. In the absence of special tax relief, some of these persons could be liable to Canadian taxes.

In recognition of the unique character of the Olympic and Paralympic movement, and as part of Canada's commitment to facilitate the hosting of this special event, Budget 2007 proposes to introduce a tax relief package with respect to the 2010 Games.

The package has three components. First, consistent with Canada's commitments in the context of the Vancouver games bid, Budget 2007 proposes to waive any non-resident withholding tax liability of the IOC and the International Paralympic Committee (IPC). In 2006, the IOC and IPC began receiving certain payments, such as royalties, from the Vancouver Organizing Committee (which is responsible for organizing the 2010 Games). These payments relate to, among other things, the use of intellectual property such as the Olympic identity. Under Canada's tax system, these payments are ordinarily taxable as Canadian-source property income. The proposed measures will relieve this tax for any payment made after 2005 and before 2011.

Second, Budget 2007 will ensure that non-resident athletes and other non-resident individuals are not taxed as a direct result of their participation in the 2010 Games. For example, Canadian-source income might arise if a non-resident athlete were paid by a commercial sponsor based on his or her 2010 Games performance. Or a foreign journalist who filed a story from the 2010 Games might be considered to be employed in Canada.

These two measures will be implemented through amendments to the *Income Tax Act*. Specifically, they will provide a non-resident withholding tax exemption for the IOC and the IPC, and an exemption from ordinary ("Part I") income tax for Canadian-source income earned in the context of the 2010 Games by the following non-residents:

- the IOC and the IPC and their members, officers, employees, and contract workers;
- athletes representing countries other than Canada;
- officially registered support staff associated with teams from countries other than Canada (e.g., coaches, trainers);
- persons serving as games officials; and
- accredited foreign media organizations and their employees and contract workers.

Measures will relieve this tax for any payment made after 2005 and before 2011.

The third component of the package relates to imported goods. Budget 2007 proposes to remit all or a portion of the customs duties, excise taxes and GST/HST on certain goods (such as personal effects, gifts, awards, display goods and equipment) imported into Canada in connection with the 2010 Games.

See Commentary at ¶25,460 and ¶25,466.

Meal Expenses of Truck Drivers

In general, the Canadian tax system limits the deductibility of business-related meal and entertainment expenses to 50 per cent of the amount otherwise allowable as a deductible expense. This limitation reflects the personal consumption aspect inherent in such expenses.

Budget 2007 proposes to increase, over five years, to 80 per cent, the deductible portion of the cost of food and beverages consumed by long-haul truck drivers during eligible periods of travel. This measure will also apply to employers that pay, or reimburse, such costs incurred by long-haul truck drivers that they employ.

For this purpose a long-haul truck driver will be:

- an employee whose principal duty of employment is to drive long-haul trucks for the purpose of transporting goods; and
- an individual whose principal business is to drive long-haul trucks for the purpose of transporting goods.

A long-haul truck will be a truck or tractor that is designed for hauling freight, that is primarily used for that purpose to earn income and that has a gross vehicle weight rating (as that term is defined in subsection 2(1) of the Motor Vehicle Safety Regulations) in excess of 11,788 kg.

An eligible period of travel during which the higher deductibility percentage will apply in respect of a long-haul truck driver is a period during which:

- the driver is away for at least 24 continuous hours from:
 - in the case of a self-employed individual, the municipality where the driver resides (the residential location), or
 - in the case of an employee, the municipality or metropolitan area in which the business to which the

employee reports is located (the business location); and

- the driver's trip is for the purpose of transporting goods to, or from, a location beyond a radius of at least 160 kilometres from the residential or business location, as the case may be.

The deductible portion of expenses will be increased to 60 per cent for expenses incurred on or after March 19, 2007 and before January 1, 2008, and to 65, 70, and 75 per cent for such expenditures incurred during 2008, 2009, and 2010, respectively. The deductible portion will be increased to 80 per cent for such expenditures incurred after 2010.

Currently, under the goods and services tax/harmonized sales tax (GST/HST), a person entitled to claim input tax credits (ITCs) for food and beverage expenses for a reporting period in a fiscal year is required to make a year-end adjustment to their net tax to recapture ITCs that are attributable to the personal consumption portion of the expenses. To parallel the change in deductibility of long-haul truck driver meal expenses under the *Income Tax Act*, the proportion of recaptured ITCs related to these expenses will decrease from 50 to 20 per cent between 2007 and 2011 for an allowance or reimbursement paid, or tax that became payable, or is paid without having become payable, in respect of the supply of the food and beverages for the periods during which the increased deductibility percentage is phased in for income tax purposes.

See Commentary at ¶25,325.

Employer Pensions

Phased Retirement

The Income Tax Regulations currently prohibit employees from accruing pension benefits under a defined benefit Registered Pension Plan (RPP) if they are receiving a pension from the plan or from another defined benefit RPP of the employer or a related employer. This rule prevents employers from offering phased retirement programs that would permit older workers to continue working, while at the same time receiving a partial pension and accruing further pension benefits in respect of their part-time work. It also prevents employers from paying a partial pension to older workers to increase the reward from full-time work, if the worker continues to accrue pension benefits.

To provide more flexibility to employers to offer phased retirement programs, and to increase the reward to older workers from full-time work, Budget 2007 proposes to amend the Income Tax Regulations to allow an

employee to receive pension benefits from a defined benefit RPP and simultaneously accrue further benefits, subject to certain constraints.

Specifically, the new regulations will allow employers to offer qualifying employees up to 60-per cent of their accrued defined benefit pension, while accruing additional pension benefits on a current service basis in respect of their post-pension commencement employment. To ensure that this measure has a positive impact on labour supply, qualifying employees will be limited to employees who are at least 55 years of age and who are otherwise eligible to receive a pension without the plan imposing an early retirement reduction. The 60 per cent limit will be based on the amount of pension benefits (including bridging benefits) that would be paid from the plan if the employee were fully retired.

There will be no requirement that the partial pension be based on a reduction in work time or that there be a corresponding reduction in salary. The tax rules will allow an employer to offer an employee a partial pension of up to 60 per cent of accrued pension benefits while at the same time allowing the employee to accrue benefits in respect of post-pension commencement employment, regardless of whether the employee is working full- or part-time. The provisions of the regulations which enable benefits to accrue in respect of periods of absence or reduced pay will not apply to employees accruing benefits under this new measure.

The new regulations will place no restrictions on when, or how often, an employee's accrued pension amount can be recalculated to take into account the employee's additional pensionable service and increased annualized earnings (if any) during a period of simultaneous accrual and pension payment. Nor will the tax rules prevent a plan from limiting participation to specific employees identified by the employer.

The new regulations will also ensure that the prohibition against the payment of bridging benefits on a stand-alone basis (i.e., without the simultaneous payment of lifetime pension amounts) does not apply with respect to qualifying employees. Bridging benefits are temporary pension amounts that can be paid up to the age of 65 years, the purpose of which is to bridge the gap from pension commencement until the time that public pension benefits (i.e., benefits under the Old Age Security program or under the Canada or Quebec Pension Plan) typically become payable.

This approach will give employers a great degree of flexibility in designing older-worker retention programs that meet their specific needs. It will, for example, permit employers to offer phased retirement programs that are

based on a *pro rata* proportion of pension and salary – for example, 40 per cent of the accrued pension based on a reduction in work time of two days per week, and 60 per cent of salary based on working three days a week or that provide for qualifying employees to receive the bridging benefits that would be payable if the employee were fully retired. It will also permit an employer to increase the reward from full-time work by offering a partial pension to those wishing to continue in employment on a full-time basis.

The prohibition on accruing additional benefits while in receipt of pension payments will continue to apply to designated plans as well as to persons who are connected with their employer. Designated plans (as defined in section 8515 of the Regulations) are generally one-person plans and small plans for groups of executives, owner-managers, or other highly compensated employees. An employee is generally considered to be connected with an employer (as set out in subsection 8500(3) of the Regulations) if the employee does not deal at arm's length with the employer, or if the employee owns, in the case of a corporate employer, 10 per cent or more of the shares of the employer or a related corporation.

In order to provide for an appropriate period of consultation on the technical aspects of this measure, it is proposed that 2008 be the first year of service in respect of which an employee will be permitted to accrue benefits under a defined benefit RPP while in receipt of a partial pension.

The government will proceed with any changes that are necessary to the federal *Pension Benefits Standards Act, 1985* to accommodate phased retirement in federally regulated pension plans. Provincial pension benefits legislation may also need to be modified to accommodate this measure.

See Commentary at ¶60,235.

Remittance and Filing Thresholds: Source Deductions, GST, and Corporate

Small businesses face challenges in handling the paperwork associated with filing tax forms and remitting taxes. Budget 2007 proposes to ease the paperwork burden by reducing the frequency of tax remittances and filings for small businesses. Currently, and depending on the amount of its payroll, sales and income tax liability, a small business could have 34 remittance and filing requirements in these areas per year. These proposed changes will reduce the filing and remitting requirements of more

than 350,000 small businesses by, on average, about one-third. For smaller businesses, the reduction could be as much as 70 per cent.

Increasing Quarterly Instalment Remittance Threshold for Source Deductions to \$3,000

Currently, an employer is entitled to remit source deductions in respect of employees' income tax, Canada Pension Plan contributions, and Employment Insurance premiums by quarterly instalment, instead of monthly instalment, if the average monthly withholding amount (as defined in the Income Tax Regulations) for either of the two preceding calendar years is less than \$1,000 and the employer has perfect compliance history. Budget 2007 proposes to triple this threshold amount to \$3,000. In this context, perfect compliance history means that the employer has remitted its taxes payable and filed all of the required returns on time, under both the *Income Tax Act* and Part IX (GST/HST portion) of the *Excise Tax Act*, during the preceding 12 months.

These changes to the Income Tax Regulations will apply to calendar years beginning with 2008. The Canada Revenue Agency (CRA) will, at the beginning of each calendar year, continue to notify employers of their source deduction remittance requirements on the basis of source deduction information from preceding years. Other existing rules, such as those applicable to associated corporations, T4 summary reporting, and multiple payroll accounts will continue to apply.

Changes to the Canada Pension Plan and Employment Insurance regimes will also be made to mirror the changes to the Income Tax Regulations.

See Commentary at ¶24,250.

Increasing GST/HST Annual Filing and Annual Remittance Thresholds

To minimize GST/HST compliance costs, small and medium-sized businesses may reduce their filing frequency by using annual or quarterly reporting periods. Larger businesses are required to file monthly.

GST/HST registrants with taxable supplies that do not exceed \$500,000 in a fiscal year may elect to have reporting periods that are fiscal years, which enables them to file an annual GST/HST return and make quarterly instalment payments. Also, if their GST/HST net tax payable for the reporting period or the preceding reporting period is less than \$1,500, only one "annual" remittance of tax is required for the period.

To further reduce the paper burden of small and medium-sized businesses, Budget 2007 proposes to:

- triple the taxable supplies threshold, at or below which registrants can file a GST/HST return annually, to \$1,500,000 from \$500,000; and
- double the net tax threshold, below which annual GST/HST filers can make one tax remittance, to \$3,000 from \$1,500.

These measures will apply to fiscal years that begin after 2007.

Increasing Corporate Income Tax Instalment Threshold to \$3,000 and Reducing Instalment Frequency for Small Businesses

Currently, all corporations are required to pay their taxes either annually or in monthly instalments. Corporations must pay income tax in monthly instalments unless the total of the taxes under Part I (income tax), Part VI (minimum tax on financial institutions), Part VI.1 (taxable preferred shares), and Part XIII.1 (authorized foreign banks) of the *Income Tax Act* payable for either the previous year or the current year (determined before taking into consideration the “specified future tax consequences”, as the term is defined in the *Income Tax Act*) does not exceed \$1,000.

Budget 2007 proposes to triple, to \$3,000 from \$1,000, the threshold amount above which corporations are required to pay corporate income tax by instalment. This threshold change will apply in respect of corporate taxation years that begin after 2007. The balance-due day for the final payment of corporate tax for a taxation year will remain unchanged. The CRA will continue to notify corporations as to whether instalments are required.

Budget 2007 also proposes that, for small Canadian-controlled private corporations (CCPCs) that are required to pay tax instalments, the frequency of instalment payments be reduced from monthly to quarterly if (as adjusted to take into account groups of associated corporations):

- the taxable income of the corporation for either the current or previous year does not exceed \$400,000;
- the corporation qualified for the small business deduction for either the current or previous year;
- the taxable capital employed in Canada of the corporation does not exceed \$10 million in either the current or previous year; and

- the corporation has no compliance irregularities under the *Income Tax Act* and Part IX (the goods and services tax/harmonized sales tax (GST/HST) portion) of the *Excise Tax Act* during the preceding 12 months (generally the same requirement that currently applies under provisions allowing certain employers to remit source deductions quarterly).

There will be three methods available to determine the quarterly instalment amounts:

- four instalments equal to $\frac{1}{4}$ of the estimated tax payable for the current taxation year;
- four instalments equal to $\frac{1}{4}$ of the tax payable for the previous taxation year; or
- a first instalment equal to $\frac{1}{4}$ of the tax payable for the second preceding year, with the remaining three instalments being equal to $\frac{1}{3}$ of the amount, if any, by which the tax payable for the previous taxation year exceeds the first instalment paid for the current taxation year.

Quarterly instalments will be available for eligible CCPCs in respect of corporate taxation years that begin after 2007. The quarterly instalments will be due on the last day of each quarter of the corporation’s taxation year.

The CRA will continue to notify corporations that are required to remit instalments of the amount of each instalment, determined on the basis of tax information that is available to the CRA. A corporation that fails to make a quarterly instalment payment by its due date will be required to make monthly instalment payments beginning with the following month. The balance-due day for the final payment of corporate taxes will remain unchanged.

British Columbia

The 2007 British Columbia Budget was presented February 20, 2007, reported in the February issue of PAYSOURCE, No. 140, and is reproduced in the “Budgets & New Developments” section at ¶180,158.

New Brunswick

The 2007 New Brunswick Budget of March 13, 2007, presented by Finance Minister Victor Boudreau, contained the following measures related to payroll.

Personal Income Tax Rates

Effective January 1, 2007, the province’s personal income tax rates will be increased.

The new rates will be 10.12 per cent on the first income bracket, 15.48 per cent on the second, 16.80 per cent on the third, and 17.95 per cent on the fourth bracket. This will be reflected in source deductions for employees beginning July 1, 2007.

Corporate Tax Rates

General Corporate Rates

The provincial general corporate income tax (CIT) rate will increase to 13 per cent effective January 1, 2007, restoring the rate that was in effect for the 2006 taxation year.

The provincial small business corporate income tax rate will be increased to five per cent effective January 1, 2007, and the income threshold eligible for the small business CIT rate will be decreased from the current level of \$475,000 to \$400,000.

Small Business Investor Tax Credit

The Small Business Investor Tax Credit was introduced in 2003 and provides a 30 per cent non-refundable personal income tax credit to New Brunswick investors who invest in eligible businesses in the province. The credit is applied against provincial personal income tax otherwise payable.

The Small Business Investor Tax Credit Program provides an opportunity for small businesses to raise capital by offering investors a tax credit for investing in eligible small New Brunswick businesses.

The objective of the Small Business Investor Tax Credit Program is to provide an important source of capital by increasing access to equity financing for New Brunswick businesses. The program encourages New Brunswickers to invest in New Brunswick businesses.

Since the program started in 2003, 70 New Brunswick small businesses have benefited from the program. Investments in New Brunswick companies eligible for the credit are approximately \$9.4 million and a total of 355 New Brunswick investors have received a tax credit under the program. The total value of tax credits issued since 2003 is approximately \$2.8 million.

Effective March 13, 2007, the New Brunswick Small Business Investor Tax Credit will be enhanced by:

1. Increasing the size of the allowable investment for the 30 per cent credit from \$50,000 to \$80,000 (as a

result the maximum amount of credit available to an individual investor will increase from \$15,000 to \$24,000);

2. Broadening the type of shares issued to include convertible, preferred shares; and
3. Increasing the size of business that is eligible to participate in the program from \$25 million in net tangible assets to \$40 million.

Ontario

The 2007 Ontario Budget of March 22, 2007, presented by Finance Minister Greg Sorbara, contained the following measures related to payroll.

Employment Standards – Minimum Wage

The government proposes to increase the hourly minimum wage to \$10.25 by 2010, with three annual increases of 75 cents starting on March 31, 2008.

Similar increases are expected in the other minimum wages for liquor servers, homeworkers, students and hunting and fishing guides.

Therefore, the general Ontario minimum wage is expected to be the following over the next three years:

- \$8.75 – March 31, 2008
- \$9.50 – March 31, 2009 and
- \$10.25 – March 31, 2010

See Commentary at ¶5534.

Quebec

The 2007 Quebec Budget was presented February 20, 2007, reported in the February issue of PAYSOURCE, No. 140, and is reproduced in the “Budgets & New Developments” section at ¶180,158.

Saskatchewan

The 2007 Saskatchewan Budget of March 22, 2007, presented by Finance Minister Andrew Thomson, contained the following measures related to payroll.

Personal Income Tax Credits

As part of the Minister of Finance's Budget Address, the Minister announced that Saskatchewan will legislate the indexation of income tax benefits to protect tax credits from being eroded by inflation.

See Commentary at ¶25,234.

Northwest Territories

The 2007 Northwest Territories Budget was presented February 8, 2007, reported in the February issue of PAYSOURCE, No. 140, and is reproduced in the "Budgets & New Developments" section at ¶180,158.

Nunavut

The 2007 Nunavut Budget of March 7, 2007, presented by Finance Minister David Simailak, contained no new tax increases/decreases affecting payroll.

Need To Know

Manitoba Employment Standards Amendments Law on April 30, 2007

The most comprehensive changes to the *Employment Standards Code* in 30 years will come into effect April 30, 2007.

With Report No. 140 dated February 2007, we have begun the process of incorporating the new Manitoba Employment Standards into PAYSOURCE.

With this Report, the following new provisions have been incorporated into the "Employment Standards" section of PAYSOURCE at the following sections:

- Individual Termination: ¶6226;
- Group Termination: ¶6324; and
- Administration: ¶6700.

CRA Announces Second Quarter Interest Rates

The second quarter interest rates were recently confirmed by the Canada Revenue Agency (CRA). Effective April 1, 2007 through June 30, 2007, the rates will be:

- 9% for interest on unremitted employee income tax source deductions, unremitted CPP and EI contributions, unpaid penalties, overdue personal income tax payments and insufficient income tax instalment payments;
- 7% for interest payable on income tax refunds and overpayments; and
- 5% for deemed interest when computing the taxable benefits on employee or shareholder loan provisions.

The first quarter interest rates have been incorporated into PAYSOURCE in the "Employee Benefits" section at ¶20,155 and ¶20,600, the "Statutory Deductions – Employer Remittances" section at ¶24,304, the "Statutory Deductions – Tax" section at ¶27,020, and the "Year-End Reporting" section at ¶65,686.

Minimum Wage Increase Reminders

The new minimum wage rates have been incorporated into the "Employment Standards" section of PAYSOURCE at ¶5505, ¶5534, ¶5536, and ¶5540.

Manitoba

On April 1, 2007, the minimum wage will increase to \$8.00 per hour, up from the current level of \$7.60 per hour.

Prince Edward Island

On April 1, 2007, the minimum wage will increase to \$7.50 per hour, up from the current level of \$7.15 per hour.

Yukon

On April 1, 2007, the minimum wage will increase to \$8.37 per hour, up from the current level of \$8.25 per hour.

Nova Scotia

On May 1, 2007, the minimum wage will increase to \$7.60 per hour, up from the current level of \$7.15 per hour. The minimum wage for inexperienced workers – those with less than three months employed in the type of work they are hired to do – will rise to \$7.15 per hour from \$6.70.

Recent Cases and Rulings

Reporting for Non-Arm's Length Transactions with Non-Residents

Under section 233.1(2) an information return is required with respect to non-arm's length transactions with non-residents "with whom the reporting person does not deal at arm's length in the year". It is the CRA's view that the provision contemplates transactions between two persons and that an information return is not required with respect to "amounts allocated or charged to a Canadian Branch from the non-resident corporation Head Office". In this regard, the CRA notes that "the T-106 would contain effectively the same information as the T2 return".

Technical Interpretation, International Tax and Trusts Division, November 20, 2006, Document No. 2006-020368117.

Automobile Allowance and Operating Costs

The issue the CRA was asked to consider involved an employer paying to his employees a flat rate monthly allowance for the use of their vehicle and reimbursing them for the costs of operating their vehicle. The CRA was asked to confirm the tax treatment of the allowance and the reimbursement. The CRA confirmed that the full amount of the allowance paid in the year and the portion of the reimbursement associated with the personal use of the vehicle (based on the number of personal kilometres driven during the year) would be included in the employees' income for that year. Relying on the definition of the expression "allowance" under paragraph 40 of IT-522R and the fact that the flat rate allowance was not a reasonable allowance under subparagraphs 6(1)(b)(x) or 6(1)(b)(xi) of the Act, the CRA concluded that it was not exempted from tax under subparagraph 6(1)(b)(vii.1). The allowance was not reasonable since it was not based exclusively on the number of kilometres driven for business purposes and since the employee received both an allowance for the use of his vehicle and a reimbursement of the operating costs of the vehicle. Regarding the reimbursement of the operating costs of the vehicle like fuel, maintenance, repairs, licenses, insurance and eligible leasing cost, the CRA confirmed that this would be considered a taxable benefit to be included in the employee's income under paragraph 6(1)(a) of the Act but only for the portion of the reimbursement related to the personal use of the vehicle.

Technical Interpretation, Business and Partnerships Division, December 15, 2006, Document No. 2005-0159931E5.

Whether an Automobile Allowance is Reasonable and Deductible

The issue the CRA was asked to consider involved an employee receiving a lump-sum allowance for the use of his automobile from his employer. The allowance was calculated by multiplying the number of kilometres driven by the employee during the year (for performing his employment duties and for other purposes) by the prescribed allowance rate deemed to be reasonable by the CRA (see Regulation 7306). Although the employer had a log of the kilometres driven by the employee during the year, there was no separate record of the business kilometres driven by the employee. The CRA was asked if the employee was deemed to receive only one taxable allowance for the total amount received from the employer, or two separate allowances: one being tax-exempt for the number of kilometres driven in the course of his employment, and another one being taxable for the number of kilometres driven for other purposes. The CRA was also asked to comment on the tax treatment of each allowance for the employer and the employee if it concluded that there were two distinct allowances.

It is the CRA's view that the allowance was not reasonable within the meaning of subparagraph 6(1)(b)(x) of the Act because it was not based solely on the number of kilometres for which the employee's automobile was used in connection with his employment. To the extent the employee's vehicle was not only used for business purposes but also for other purposes (presumably for personal reasons), it was not used solely in connection with his employment. Based on the facts, the CRA considered that there was one allowance and that it was not reasonable. Therefore, it was taxable and there was no need to determine if the conditions outlined under subparagraph 6(1)(b)(vii.1) had been met.

Technical Interpretation, Business and Partnerships Division, December 4, 2006, Document No. 2006-0185301E5.

Books and Records – Records on Heat Sensitized Paper

The issue the CRA was asked to consider involved a salaried employee who purchased gas at a service station and a small business corporation that purchased office supplies at a superstore where the sales receipt provided by the supplier did not show the client's name and was printed on heat sensitized paper. Both clients knew very well that the information on the receipt would disappear after a few months but did not, mainly because of the costs involved, photocopy or scan the receipts. The purchases were booked and claimed as a tax deduction since it was

reasonable to consider that they were made by the clients to earn employment or business income. However, when their tax returns were audited two years later, the auditor noted that the receipts were illegible. The CRA was asked: (1) If they had a policy on the retention of documents produced on heat sensitized paper; (2) If they could disallow expenses supported by purchase invoices printed on heat sensitized paper and that had become illegible; (3) If they could be liable to the penalty under subsection 163(2) of the Act for making a false statement under circumstances amounting to gross negligence by not photocopying or scanning those invoices; and (4) If the purchase of a computer and a scanner by the individual to process those invoices would be deductible from the individual's income.

Relying on section 230 of the Act and on paragraphs 6 and 7 of 78-10R4, the CRA confirmed the absence of a policy on the retention of supporting documents (including purchase invoices) on heat sensitized paper. Regarding the deduction of the purchases from the taxpayer's income, the CRA confirmed their policy to disallow any expenses not supported by the proper documentation unless other acceptable evidence was available to support

the deduction. Therefore, the CRA would disallow the deduction if the supporting vouchers were illegible unless the clients could show other evidence that the purchases were actually made. However, the CRA confirmed their policy not to impose the penalty under subsection 163(2) of the Act for unvouchered expenses unless they were grossly or wilfully overstated or unless the disallowed expenses were material and the tax adjustment supported by a formal net worth statement. To avoid this problem, taxpayers buying goods from a supplier printing his receipts on heat sensitized paper should refuse those receipts and require one printed on normal paper, or keep the following details in their books: supplier's name and address; date, amount, and mode of payment; description of goods and services purchased. The CRA confirmed that the purchase of a computer or scanner purchased by a salaried employee to process a receipt printed on heat sensitized paper would not be deductible since it is not covered anywhere in section 8 of the Act.

Technical Interpretation, Reorganizations and Resources Division, December 13, 2006, Document No. 2005-0156201E5.