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REMITTANCE OF SOURCE DEDUCTIONS AND PENALTIES

The 2008 federal Budget which was presented February 26, 2008 contained measures that change the penalties imposed for late remittance of source deductions and failure to remit source deductions at a financial institution. The federal Budget is reproduced in the "Budgets & New Developments" section at ¶180,162 and the changes to the penalty structure have been incorporated into PaySource in the "Statutory Deductions – Employer Remittances" section at ¶24,304 and the "Statutory Deductions – Tax" section at ¶27,020.

Reproduced below is a notice that the CRA has posted regarding the changes to penalties for late remittances of source deductions and the failure to remit source deductions at a financial institution.

Income Tax Changes Affecting Businesses – Remittance of Source Deductions and Other Amounts

Since July 2003, the Canada Revenue Agency (CRA) has administratively applied a graduated penalty structure to late remittances rather than the legislated 10% penalty. This administrative position applied to remittances of source deductions under Part I of the *Income Tax Act*. The February 26, 2008 budget proposes to legislate the graduated penalty structure. Non-resident tax remittances under Part XIII of the Act will also be subject to the graduated penalty structure as of February 26, 2008.

Late Remittances and Payments

The proposed amendment to subsection 227(9) of the Act will legislate the administrated graduated structure as follows:

Inside

- 3% of the amount if received one to three days after it was due;
- 5% of the amount if received four or five days after it was due;
- 7% of the amount if received six or seven days after it was due; and
- 10% of the amount if not paid or received on or before the seventh day after it was due.

Corresponding changes will be made to the *Employment Insurance Act* and the *Canada Pension Plan*.

Mandatory Remittances to Financial Institutions

Large employers with an average monthly withholding amount of $50,000 or more are required to remit their deductions at source at a designated financial institution (DFI). Failure to comply with this requirement could result in a penalty of 10% of the amount not remitted at a DFI.

For remittances due on or after February 26, 2008, the budget proposes that an amount received by the CRA at least one day before the due date will be considered to be in compliance with the requirement that it be remitted to a DFI.

In addition, where remittances and payments are made on the day they were due, but not at a DFI, the budget proposes that they will be subject to a minimum penalty of 3% of the amount not remitted at a DFI. Where the remittance is received late, the graduated penalty structure will be applied.

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Hot News Items

2008 Budget Season

Budget season is upon us once again. To date, the federal government and the following provinces/territories have issued their 2008 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.

Federal

The 2008 federal Budget was presented February 26, 2008, and is reproduced in the "Budgets & New Developments" section at ¶180,162.

British Columbia

The 2008 British Columbia Budget was presented February 19, 2008, reported in the February issue of PaySource, No. 152, and is reproduced in the "Budgets & New Developments" section at ¶180,164.

New Brunswick

The 2008 New Brunswick Budget of March 18, 2008, presented by Finance Minister Victor Boudreau, contained the following measures related to payroll.

Personal Income Tax Rates

The Budget contained no tax increases.

A Competitive Tax System for a Self-Sufficient New Brunswick

The New Brunswick tax system raises revenues to pay for the services the province delivers such as health care, education, social programs, and highways. The tax system

plays an important role in supporting economic growth and wealth creation. It must be equitable to all New Brunswickers, and it must place New Brunswick in a favourable position with respect to competing jurisdictions. One of the pillars supporting the self-sufficiency objective is the transformation of the tax system. New Brunswick's overall tax burden is competitive, but significant reforms will be required to support self-sufficiency.

During the past several months, this government has taken steps toward reviewing the New Brunswick tax system, and several options on how to transform the tax system are being finalized. In April, we will table a Green Paper that will outline options to significantly reform the tax system with our purpose to better facilitate wealth generation by all New Brunswickers, and make the province more attractive to investment and high paying jobs. The focus of this paper will be the entire tax system: personal income tax, corporate income tax, property taxes for individuals and businesses, consumption taxes, and fuel taxes. All will be fully examined. The paper will also include an examination of ways to ensure that local governments making decisions on financing public expenditures are more transparent and accountable to taxpayers who pay for these services.

In order to achieve stronger rates of economic growth and help attract skilled labour to New Brunswick, personal tax reform is necessary. Transformational personal tax reform will leave more income in the hands of New Brunswickers, help increase savings and investment, and generate wealth for current and future generations. A simplified personal tax system with significant income tax reductions will assist in achieving these outcomes.

It is important that business taxation be competitive with other jurisdictions and not be a deterrent for corporations to locate and invest in New Brunswick. Reducing the tax on corporate income will enhance New Brunswick's business tax competitiveness, and assist in encouraging new investment and job creation in New Brunswick, which are vital to economic growth and self-sufficiency.

These changes will grow the tax base over time, enabling us to invest in the priorities of New Brunswickers and move us on the path to greater self-sufficiency in a fiscally responsible manner.

The Green Paper that we will table in April will outline the general direction of tax reform, as well as present a range of options to improve the overall tax system, support economic growth, encourage savings and investment, and attract skilled labour to New Brunswick.

A Select Committee of the Legislature will be appointed to conduct consultations with stakeholders over the summer. This Committee will report back in the fall with recommendations for the government to consider and act upon.

We are not alone in looking at our tax system. In its October 2007 Economic Update, the federal government reiterated its Tax Advantage for Canada plan to make Canada more competitive and attractive for businesses to invest, spend and create jobs. As part of this, the federal government is encouraging provinces and territories to harmonize sales taxes, eliminate corporation capital taxes, and lower corporate income taxes.

New Brunswick supports this direction and, in fact, is well on its way to meeting the challenge. We are among four provinces that already have adopted a value-added sales tax regime. And, the phasing-out of our Large Corporation Capital Tax will be completed by year-end, further improving our competitiveness in 2009. In fact, Mr. Speaker, the federal government has noted that in 2012, New Brunswick will have an overall business tax advantage compared to all other Canadian jurisdictions.

In terms of lower corporate taxes, we are generally supportive of the federal government's principle of lowering the statutory corporate income tax rate to a combined 25 per cent federal–provincial–territorial rate by 2012 that would enhance Canada's position internationally as a country favoured for business investment. Lower provincial corporate income taxes will be among the tax reform options in our Green Paper.

As we embark on the process of tax reform, Mr. Speaker, we must continue to manage the province's finances in a fiscally responsible manner and respect our balanced budget legislation. As with all initiatives announced by this government, tax reform will need to be undertaken in this context.

Ontario

The 2008 Ontario Budget of March 25, 2008, presented by Finance Minister Dwight Duncan, contained the following measures related to payroll.

Personal Income Tax Rates

An increase in the maximum Northern Residents Deduction for the 2008 taxation year and beyond will be adopted in order to parallel the Federal tax measures announced by the federal government in its 2008 Budget.

Modernizing Ontario's Regulation

ONT-TAXS

ONT-TAXS (Ontario's Tax Services) is providing businesses with flexible, easier and more convenient ways to meet their tax obligations, including:

- new self-serve options over the Internet through ONT-TAXS online to file returns, make payments and view accounts
- one toll-free number that replaces 39 existing ones
- one integrated computer system to support "one-window" service delivery
- one business number for convenient access to multiple tax accounts
- user-friendly letters and forms.

In 2010, these modernization initiatives will be completed for all tax programs administered by Ontario.

Taxes Administration Act

A *Taxes Administration Act* would combine provincial tax administration rules common to various tax statutes into one statute with an accompanying reduction in regulations.

This would result in regulatory simplification for taxpayers by providing:

- a single point of reference
- an expected overall reduction in tax legislation of up to 25 per cent
- consistency of administration rules
- an opportunity to simplify legislative language.

Work on the initiative is commencing and is expected to be completed in late 2009.

Corporate Taxes

Federal administration of Ontario Corporate Taxes will make tax compliance simpler and less costly.

Transferring the administration of Ontario corporate taxes to the federal government for taxation years ending after 2008 will save Ontario businesses up to $100 million a year in administrative costs. Businesses will save a further $90 million a year in Ontario CIT from a harmonized CIT base. Ontario businesses will benefit from one tax return, one set of rules, one audit and one appeals process.

Quebec

The 2008 Quebec Budget of March 13, 2008, presented by Finance Minister Monique Jérôme-Forget, contained the following measures related to payroll.

Personal Income Tax

Indexation of the parameters of certain measures for workers

To protect the purchasing power of taxpayers against the rising cost of goods and services, the main parameters of the personal income tax system have been indexed annually since January 1, 2002.

This indexation applies to, among other things, the thresholds of the three taxable income brackets of the tax table, the amounts of recognized essential needs used to calculate several non-refundable tax credits, and to the maximum amounts of assistance granted under various refundable tax credits.

However, apart from the thresholds concerning the deductibility of automobile expenses and the rates for calculating the value of the taxable benefits related to the use of an automobile, which are set annually, few measures for workers are adjusted automatically. (Currently, the reduction threshold used to calculate the deduction for tradesperson tool expenses and the monthly amount of the non-taxable board and lodging allowances paid to young athletes are indexed automatically each year.)

A recent review of the tax legislation led to the identification of three measures intended primarily for workers that are aimed at recognizing expenses subject to inflation. These measures are the deduction for workers, the exemption for emergency services volunteers and the refundable tax credit for holders of a taxi driver's or owner's permit.

Consequently, so that these measures are also protected from inflation, the tax legislation will be amended to provide that their thresholds will be indexed automatically on an annual basis as of January 1, 2009.

Deduction for workers

All workers, be they employees or self-employed, may claim a deduction equal to 6% of their eligible work income, to a maximum of $1,000. For greater clarity, where

the result after applying the indexing factor to the maximum amount is not a multiple of 5, it must be adjusted to the nearest multiple of 5 or, if it is equidistant from two multiples of 5, to the nearest higher multiple of 5.

Amount for emergency services volunteers

Under the tax system, individuals who are employed by a public administration as volunteer ambulance technicians, volunteer firefighters or volunteers providing assistance in emergency situations do not have to include, in the calculation of their income, part of the amounts they receive or benefit from to carry out their volunteer duties.

This non-inclusion, which applies to the first $1,000 individuals receive or benefit from in carrying out their duties as emergency services volunteers takes into account the fact that such individuals cannot deduct, in the calculation of their income, expenses, such as travel expenses, incurred in carrying out their duties.

Given that the expenses covered by this measure are subject to inflation, the $1,000 ceiling will be indexed automatically each year.

Refundable tax credit for holders of a taxi driver's or owner's permit

The purpose of the refundable tax credit for holders of a taxi driver's or owner's permit is to help the taxi industry by mitigating the impact of gas price hikes.

Taxpayers who hold one or more taxi owner's permits may claim a refundable tax credit equal to the result obtained by multiplying $500 by the number of taxi permits they hold, provided they bore all or almost all of the fuel costs related to the use of all automobiles covered by the permits.

In addition, individuals who hold a taxi driver's permit may claim a refundable tax credit of up to $500, unless they received a refundable tax credit as the holder of a taxi owner's permit.

To take inflation into account in the tax assistance available under this tax credit, the maximum amount of $500 attributed respecting a given permit will be indexed.

Tax credit with respect to age

Starting in taxation year 2009, the amount giving rise to the tax credit with respect to age ($2,200 in 2009) will be indexed at the indexing rate of the personal income tax system.

Indexing the amount of the tax credit with respect to age will provide tax relief of $2 million for 330 000 taxpayers in 2009. Successive additional tax reductions of some $3 million will be added in each subsequent taxation year.

Amount for retirement income

Introduced in 1975 to protect Quebecers' retirement income from inflation, the maximum amount for retirement income did not exceed $1,000 until 2007.

Further to the 2007-2008 Budget Speech, the maximum amount for retirement income was raised from $1,000 to $1,500. As a result of this $500 increase in the maximum amount for retirement income, low- and middle-income pensioners may now obtain an income tax reduction of up to $600 in the case of a couple, and $300 otherwise.

Retirement income giving entitlement to this amount includes payments in respect of a life annuity out of or under a pension plan, annuity payments under a registered retirement savings plan or a deferred profit sharing plan and payments out of or under a registered retirement income fund. It does not include benefits received under the *Old Age Security Act* – the old age security pension, the spouse's allowance and the guaranteed income supplement – or the retirement pension received under the *Act respecting the Quebec Pension Plan*.

To further relieve the tax burden of low- and middle-income pensioners, an individual's maximum eligible retirement income used to calculate the tax credit will be raised from $1,500 to $1,750 for the 2009 taxation year, and from $1,750 to $2,000 as of the 2010 taxation year. Thus, a couple's maximum eligible retirement income will be $3,500 for the 2009 taxation year and $4,000 for the 2010 taxation year.

In addition, to protect the maximum amount of $2,000 for retirement income from inflation, it will be indexed automatically each year, as of the 2011 taxation year, on the basis of the index used for the main parameters of the personal income tax system.

Introduction of a refundable tax credit for respite expenses of informal caregivers

Assistance for respite is a major concern for informal caregivers who are under growing pressure and cannot allow themselves respite other than by funding the costs of their replacement themselves.

To relieve the burden on informal caregivers, the 2008-2009 Budget introduces a new refundable tax credit

for respite expenses of informal caregivers as of taxation year 2008. This new tax credit is designed to offset part of the expenses incurred by an informal caregiver to supervise a person who cannot be left alone and who lives with him or her.

The tax credit is equal to 30% of supervision expenses incurred to obtain respite. Eligible expenses are those relating to services acquired from an accredited organization or a person with the required skills to care for persons losing their autonomy, subject to a maximum amount of $5,200 per year. An informal caregiver can claim the tax credit for a relative age 18 or over with whom he or she lives, if such relative cannot be left alone and suffers from a severe and prolonged mental or physical impairment. The tax assistance may reach $1,560 per year and will be reduced by 3% of his or her annual family income in excess of $50,000.

Measures to improve the administration of the fiscal laws

Use of a person's computer hardware in the course of an audit, inspection or investigation

Under the terms of the *The Act respecting the ministère du Revenu* (AMR), the auditors and inspectors of Revenu Quebec have the power to audit or examine the supporting documents and registers of a person as well as any other document or thing that may relate, in particular, to the information contained or that should be contained in the registers or on the supporting documents. They also have the power to copy, print out or photograph them.

However, it is not explicitly stipulated that the auditors and inspectors can use the computer hardware of the person (for instance, the computer, terminal, printer or burner) in the course of exercising such powers.

Accordingly, the AMR will be amended to clearly give them the power to use the computer hardware of a person in such circumstances. Amendments will also be made to the AMR to give a similar power to investigators in the course of a search.

These amendments will come into force on the date the bill giving effect to them is assented to.

Measures Relating to the February 26, 2008 Federal Budget

On February 26, 2008, the Minister of Finance of Canada presented the federal government's Budget for 2008. This budget includes various fiscal measures that affect the tax system.

Along with the budget, the federal Minister of Finance tabled, in the House of Commons, supplementary information, as well as notices of ways and means motions to amend the *Income Tax Act* and the *Excise Tax Act*.

Quebec's tax legislation and regulations will be amended to incorporate some of the measures announced. However, these measures will only be adopted following the assent given to any legislation or adoption of any regulation giving effect to them, taking into account the technical changes that may be made to them before such assent or adoption. Lastly, these measures will generally apply on the same dates as for the purposes of the federal tax system.

(Note: The references between parentheses correspond to the number of the budget resolution of the Notice of Ways and Means Motion to amend the *Income Tax Act* tabled on February 26, 2008.)

Measures relating to the *Income Tax Act* – Measures retained

Quebec's tax legislation and regulations will be amended to incorporate, with adaptations on the basis of their general principles, the measures relating to

1. the implementation of tax-free savings accounts (BR 1), 135 subject to the clarifications made below;
2. the time limits applicable to registered education savings plans (BR 2);
3. the educational assistance payments from registered education savings plans (BR 3);
4. the adjustments to the gross-up rates applicable to eligible dividends (BR 5 a);
5. the addition and clarifications to the list of eligible expenses for the purposes of the non-refundable medical expense tax credit (BR 6 and BR 7);
6. the end of a registered disability savings plan (BR 8);
7. gifts of publicly-traded securities to registered charities (BR 9);
8. the deduction for inhabitants of northern regions (BR 10);
9. the disposition of taxable Canadian property (BR 19);

10. the donation of medicines to developing countries (BR 20);

11. the amendments pertaining to capital cost allowance applicable to certain types of assets.

In addition, although they require no legislative or regulatory amendments, the measures relating to excess corporate holdings by private foundations (BR 4) will also be retained for the purposes of Quebec's tax system.

Measures not retained

Some measures have not been retained because they do not correspond to features of Quebec's tax system or because Quebec's tax system has no corresponding provisions. Such is the case with the measures relating to the deferment of the mineral exploration tax credit (BR 11), the scientific research and experimental development (BR 12 to BR 16), subject to the clarifications described below, the requirement to make large payments directly to a financial institution (BR 17) and the business number (BN) initiative.

Other measures have not been retained because Quebec's tax system is satisfactory in their regard. This applies to the measures on:

- the adjustments to the rate of the tax credit applicable to eligible dividends (BR 5 b);
- late remittances of source deductions (BR 18);
- the provincial component of specified investment flow-through trusts (BR 21), subject to the clarifications described below.

Saskatchewan

The 2008 Saskatchewan Budget of March 19, 2008, presented by Finance Minister Rod Gantefoer, contained the following measures related to payroll.

Personal Income Tax Credits – Disability-Related Tax Credits

Saskatchewan's personal income tax system currently offers tax reductions for individuals with severe and prolonged disabilities and for individuals who are supporting elderly or disabled relatives. For the 2008 taxation year, the following tax credits are being significantly enhanced:

- The $4,095 Caregiver Tax Credit amount that can be claimed by an individual who provides in-home care for an adult infirm dependent relative, or a parent or grandparent aged 65 or older, is being doubled to $8,190. The tax credit amount is reduced by the amount that the dependant's income exceeds $13,987.
- The $4,095 Infirm Dependant Tax Credit amount that can be claimed by an individual who supports an adult infirm dependent relative is also being doubled to $8,190. The dependant may live in a separate residence. The tax credit amount is reduced by the amount that the dependant's income exceeds $5,811.
- The Disability Tax Credit amount that can be claimed by an individual with a severe and prolonged impairment in physical or mental functions is being increased from $7,021 to $8,190. This amount is transferable to a supporting relative.
- The $4,095 Supplement to the Disability Tax Credit amount that can be claimed by eligible individuals who are under the age of 18 is being doubled to $8,190. The supplement amount is reduced if any child care or attendant care expenses in excess of $2,399 were claimed by a parent in respect of the eligible child. This amount may also be transferred to a supporting relative.

For further information on these enhancements to the disability-related tax credit amounts, please contact the Ministry of Finance at 1-800-667-6102.

Previously Announced Tax Measures

Effective for the 2008 taxation year, Saskatchewan's personal income tax system, including Saskatchewan's family tax credits and income tax brackets, is indexed to the national rate of inflation of 1.9 per cent.

Nunavut

The 2008 Nunavut Budget was presented February 20, 2008, reported in the February issue of PaySource, No. 152, and is reproduced in the "Budgets & New Developments" section at ¶180,164.

Yukon

The 2008 Yukon Budget of March 20, 2008, presented by Finance Minister Dennis Fentie, contained no new tax increases/decreases affecting payroll.

British Columbia Farm Worker Protection

Introduced during Farm Safety Week in British Columbia, the government had introduced legislation that will prohibit farm producers from hiring farm labour contractors who are not licensed and will provide for the cancellation or suspension of a farm labour contractor's licence for safety violations. In addition, when an unsafe farm labour contractor vehicle is taken off the road following a roadside check, the contractor will be required to pay for alternative transportation of any affected employees to the workplace.

The amendments are contained in Bill 13, the *Labour and Citizen's Services Statutes Amendment Act, 2008*.

The Bill also proposes changes that will improve the timeliness of decision-making with respect to applications and complaints to the Labour Relations Board, and will make an administrative change to the *Workers Compensation Act*.

Lastly, the Bill will make changes to the *Freedom of Information and Protection of Privacy Act* to make it a more potent piece of legislation.

Bill 13 received first reading on March 13, 2008 and the progress of the Bill will be noted in future Reports.

Newfoundland and Labrador Reservists Leave

The Province of Newfoundland and Labrador recently introduced legislation to protect the civilian jobs reservists' leave behind when they are serving their country either at home or overseas.

Newfoundland and Labrador will join New Brunswick, Nova Scotia, Ontario, Prince Edward Island, Manitoba and Saskatchewan, who have already amended their respective employment standards legislation to protect reservists' jobs. Note also, that the federal government has also introduced Reservists leave under the *Canada Labour Code*.

Amendments to the current legislation would allow reservists to be away on unpaid leave for up to 18 months and return to their previous position or to a position at a similar level. In order to meet eligibility requirements, the applicant must have at least six months of employment with their employer and provide them with the notice of the length of their leave. In addition, documentation from the Canadian Armed Forces and from the employee requiring leave will be provided upon the request of the employer.

The amendments are contained in Bill 1, *An Act To Amend The Labour Standards Act To Provide For Leave For Reservists*, which received first reading March 10, 2008.

The progress of the Bill will be noted in future Reports.

Need To Know

CRA Announces Second Quarter Interest Rates

The second quarter interest rates were recently confirmed by the Canada Revenue Agency (CRA). Effective April 1, 2008 through June 30, 2008, the rates will be:

- 8% 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;
- 6% for interest payable on income tax refunds and overpayments; and
- 4% 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.

Federal Government Reservists Leave Progresses

Bill C-40, *An Act to amend the Canada Labour Code, the Canada Student Financial Assistance Act, the Canada Student Loans Act and the Public Service Employment Act*, previously noted in the February issue of *PaySource*, No. 152, received first reading February 4, 2008, and second and third reading February 13, 2008. In the Senate, the Bill received first reading February 14, 2008 and second reading March 4, 2008.

The progress of the Bill will be noted in future Reports.

Ontario's New Employment Standards Poster

Ontario is publishing a new version of a poster about the *Employment Standards Act* (ESA) that most Ontario employers will be required to post in the workplace.

The poster outlines worker and employer rights and obligations and reflects recent changes to the ESA, regarding:

- Minimum wage;
- Reservist leave;
- Declared emergency leave;
- Family Day; and
- Employees who qualify to take a family medical leave.

"Recent changes to the *Employment Standards Act* are helping both workers and employers and moving Ontario forward in healthy and productive ways", said Ontario Labour Minister Brad Duguid.

The ESA requires all workplaces regulated by the Act to post the document in English and the majority language of the workplace. The poster will be available in 21 languages besides English and French, recognizing the diversity in Ontario's productive workplaces. All language versions of the poster continue to be available free by downloading it from the Ministry of Labour's Web site or by visiting a ServiceOntario Centre. It can also be ordered from ServiceOntario Publications, for the cost of shipping and handling.

The poster is available in English, French, Arabic, Bengali, Chinese (Traditional), Chinese (Simplified), Dari, Farsi, Filipino, Greek, Gujarati, Hindi, Italian, Korean, Oji-Cree, Polish, Portuguese, Punjabi, Russian, Spanish, Tamil, Urdu and Vietnamese.

Background information

Pursuant to the ESA, section 2(3), most employers will be required to post version 4.0 of "What You Should Know About The Ontario *Employment Standards Act*" once it is published. From February 15 to April 11, 2008, as a transition, employment standards officers may issue compliance orders for failure to post the new version of the poster. Notices of contravention or prosecutions may be initiated only for failure to comply with a compliance order. Failure to post the required version of the poster is a contravention under the Act.

On and after April 12, officers may use the full range of enforcement measures to ensure that employers are complying with the requirement to post version 4.0, including issuing notices of contravention with monetary penalties.

For further information: Public enquiries: 1-800-531-555; Media enquiries: Susan McConnell, Minister's Office, 416-326-7710, Mobile 416-606-8303; Bruce Skeaff, Ministry of Labour, 416-326-7405.

Minimum Wage Changes/Reminders

The new minimum wage rates are located in the "Employment Standards" section of PaySource at ¶5505, ¶5522, ¶5532, ¶5536, ¶5538, ¶5540 and ¶5546.

Alberta

On April 1, 2008 the minimum wage will increase to $8.40 per hour, up from the previous rate of $8.00 per hour.

Nova Scotia

Annual increases to minimum wage over the next three years will be as follows:

- May 1 to March 31, 2009: 6.5 per cent increase to $8.10 per hour.
- April 1, 2009 to March 31, 2010: 6.2 per cent increase to $8.60 per hour.
- April 1, 2010 to September 30, 2010: 6.9 per cent increase to $9.20 per hour.
- October 1, 2010 to March 31, 2011: 4.8 per cent increase to $9.65 per hour.

After March 31, 2011, minimum wage will be adjusted annually based on the Consumer Price Index.

Prince Edward Island

On May 1, 2008 the minimum wage will to increase to $7.75 per hour, up from the current level of $7.50 per hour and will rise again on October 1, 2008 to $8.00.

Quebec

On May 1, 2008 the minimum wage is expected to increase to $8.50 per hour, up from the current level of $8.00 per hour.

Saskatchewan

On May 1, 2008 the minimum wage will increase to $8.60 per hour, up from the current level of $8.25 per hour.

Yukon

On April 1, 2008 the minimum wage will increase to $8.58 per hour, up from the previous rate of $8.37 per hour.

Recent Cases and Rulings

Fifty-two-year-old, long-service manager in limited field receives 15 months' notice

• • • **Ontario** • • • Hatch-Stewart worked for the St. Catharines Museum Board as the Chief Museum Complex Officer until she was terminated as a result of dissatisfaction over her job performance. However, no cause for termination was alleged. When she was terminated, the Board offered her a severance package which included salary continuance, continued benefits for a few months, vacation pay, and counselling. Hatch-Stewart was dissatisfied with the termination package, and brought a wrongful dismissal action.

The action was allowed. In determining the appropriate period of reasonable notice, the Court considered a number of factors, including: the employee had worked for the company for 14 years; her position of Chief Museum Complex Officer was supervisory and managerial; the number of positions for management of facilities and operations within the heritage and cultural community were limited; and her age of 52 years limited her ability to find alternative employment. Therefore, she was entitled to reasonable notice of 15 months. There was no reason in this situation to extend the notice period, nor was the employer required to pay special damages for the employee's tuition to retrain for a new job.

Hatch-Stewart v. St. Catharines Museum, (Ont. S.C.J.), 2008 CLLC ¶210-003

Tribunal did not err in finding cause for dismissal

• • • **Nova Scotia** • • • Myra was employed by Nova Scotia Power Incorporated for 30 years as an administrative assistant. One of her jobs included managing the petty cash fund, which was located in a safe behind her desk. Union member employees would submit vouchers or meal chits to Myra, and she would use the petty cash to reimburse them. As the petty cash was depleted, she would submit an expense report to the business manager, with vouchers attached, and a cheque would be issued in her name to replenish the fund. Nova Scotia Power believed that Myra was resubmitting vouchers which had already been paid on subsequent expense reports, and terminated her for just cause. The Labour Standards Tribunal upheld the order of the Director, ruling that her termination for cause was justified. Myra appealed.

The appeal was dismissed. The Court began by addressing two questions relating to findings of fact and credibility, namely whether the Tribunal erred in considering the evidence and making credibility findings, and whether it erred in finding that Myra received the cash for the vouchers, as Myra claimed that someone other than herself took the vouchers and resubmitted them. Using the standard of patent unreasonableness, the Court found no error by the Tribunal in assessing credibility, or in determining that Myra received cash for the vouchers. Using the standard of reasonableness, the Court also found no error in the Tribunal's application of the civil burden of proof. Finally, with respect to just cause, there was no change in the grounds for termination put forward by the employer, as it was the breach of trust that the resubmission represented that was the grounds for the just cause dismissal, so it did not matter whether it was for taking money, or for resubmitting the vouchers.

Myra v. Labour Standards Tribunal (Nova Scotia) and Nova Scotia Power Incorporated, (N.S.C.A.), 2008 CLLC ¶210-004.

Employee can take paid time off for vacation during working notice period

• • • **Alberta** • • • Deputat, an engineering technician, was given a year's notice that his job was being eliminated, and he decided to work during the notice period. His employer, the Board, had a written policy that unused accrued holidays should not exceed more than 30 days, so Deputat was required to take some of his holidays as paid time off during the year. He was paid out for the rest of the holidays at the end of the year, as well as extra payment and overtime. When the year was over, Deputat brought a wrongful dismissal claim, and won damages as the trial judge determined that he was entitled to 18 months' notice, rather than the 12 given by the employer. The Board did not challenge the award of 18 months' notice, but appealed the way that the damages were computed.

The appeal was allowed. The first issue was whether a plaintiff may receive consecutive holiday pay and notice, or whether not working and being paid during the working

notice period qualified as a holiday. In dismissing an employee without cause, an employer is only required to provide reasonable notice. In this situation, the employee opted to remain employed during the notice period, and to be paid his regular salary. There was no inconsistency between working during his notice period, and taking paid vacation time off. The employee lost no holiday rights, since for every day of holiday he earned he was either paid to stay home, or he got an extra day of pay at the end without working. Therefore, the Court of Appeal disagreed with the trial judge's conclusion that working notice and paid holidays should be consecutive in order not to reduce the notice period. With respect to whether the employer was right in not letting Deputat work through his holidays and be paid extra, it had a clear written policy limiting banked holidays to 30 days. Finally, Deputat did not do enough to mitigate his losses while he was working. He had a duty to look for a new job, even if the new job would have started before his working notice period ended, and therefore his damages should be reduced for not adequately attempting to mitigate his losses.

Deputat v. The Board of Trustees of Edmonton School District No. 7, (Alta. C.A.), 2008 CLLC ¶210-007.

Director Liability for Source Deductions

The Minister assessed the taxpayer, as a director, for the outstanding tax debts of a corporation because in 2002 the corporation failed to remit source deductions under the *Income Tax Act* and GST under the *Excise Tax Act*. The taxpayer appealed to the Tax Court of Canada.

The appeals were allowed. The taxpayer was not a director of the corporation during the relevant period. Even if the taxpayer had been a director of the corporation for the relevant period, the evidence showed that he had exercised due diligence to prevent the failure by the corporation to file its taxes under both the *Excise Tax Act* and the *Income Tax Act*. The Minister's assessments were vacated accordingly.

Pereira, (Tax Court of Canada), 2008 DTC 2238.

Employer-Provided Rewards Under an Incentive Program

In a situation the CRA was asked to comment on, employees were issued points as a reward for meeting certain performance targets. The points could be redeemed for gift items made available by the employer.

It was the CRA's view based on the facts presented that "the points would not appear to have any value until they are redeemed or exchanged for a particular gift item". Accordingly, the employee would not have a taxable benefit until the points were redeemed.

Technical Interpretation, Business and Partnerships Division, December 5, 2007, Document No. 2007-0232051E5