

Remuneration

This publication is provided as a guide only. It is not intended as a substitute for the Employer Health Tax Act and Regulations.

Definition

Taxable total Ontario remuneration means the remuneration after the employer's available exemption is deducted.

Remuneration includes all payments, benefits or allowances which are required under sections 5, 6 or 7 of the Income Tax Act (ITA) (Canada), to be included in the income of the employee from an office or employment, or would be required if the employee were a resident of Canada.

When is Employer Health Tax (EHT) payable?

EHT is payable by employers who pay remuneration to:

- employees and former employees who report for work at a permanent establishment in Ontario
- employees who do not report for work at a permanent establishment of the employer but who are paid from or through a permanent establishment of the employer in Ontario.

Inclusions

Remuneration generally includes the following:

- salaries and wages
- bonuses, commissions and other similar payments
- advances of salaries and wages
- vacation pay
- gratuities paid through an employer
- taxable allowances and benefits
- directors' fees

- payments for casual labour
- amounts paid by an employer to top up benefits
- stock option benefits
- employer-paid contributions to a Registered Retirement Savings Plan (RRSP)
- employer-paid group life insurance premiums.

Exclusions

Remuneration does not include the following:

- a pension, annuity or superannuation paid by an employer to a retired employee
- remuneration paid by employers who are native people carrying on business on a reserve
- remuneration paid to native people working for a corporation which is located on a reserve
- remuneration paid to employees by an embassy or a consulate.

To determine what is subject to EHT, an employer should determine if the amount paid to the employee is required to be included in the employee's income under sections 5, 6, or 7 of the federal ITA.

Income from an office or employment under section 5 of the federal Income Tax Act

Bonuses

Bonuses are subject to EHT in the year they are paid, or deemed to be paid, to employees.

Advances

Advances paid on future earnings in respect of salaries, wages or commissions are subject to EHT at the time the advances are paid to employees.

A payment by an employer to an employee is usually considered an advance paid on future earnings when there are no provisions for interest payable on the amount, and the employer deducts all or part of the advance from the employee's earnings.

Vacation pay

Vacation pay is subject to EHT in the year it is paid to the employee.

Commissions

Commissions paid by an employer to its employees are subject to EHT. Commissions paid to independent contractors or independent agents under a contract for service, are not subject to EHT.

Signing bonuses

An amount paid as a signing bonus is considered remuneration subject to EHT. In addition, any amount paid by an employer to an employee under an agreement that prohibits the individual from engaging in certain activities, either before or after employment, is considered remuneration for EHT purposes.

Gratuities

Gratuities paid to an employee through the employer are subject to EHT. However, gratuities paid to an individual directly by a customer are not subject to EHT since there is no employer-employee relationship between the individual and the customer.

Top-up payments

Some employers top up unemployment benefits (e.g., for maternity leave, temporary or indefinite layoffs, etc.) or workers' compensation benefits up to the level of the employee's regular salary. These payments are employment income under the federal ITA and are subject to EHT.

However, a top-up payment made by an independent third-party trustee, under the terms of a supplementary unemployment benefit plan, is not considered remuneration for EHT purposes.

Payments to clergy

Despite vows of perpetual poverty, members of religious orders are considered to receive payments or allowances from a source that is an office or employment. Therefore, although their income may be deducted in special circumstances under subsection 110(2) of the federal ITA, the remuneration paid to them is subject to EHT.

Income from an office or employment under section 6 of the federal Income Tax Act

Allowances

Amounts paid to employees as an allowance for personal or living expenses or for most other purposes, are taxable benefits and are subject to EHT.

These do not include allowances paid to cover:

- reasonable travel expense while performing the duties of a clergy or minister
- travel, personal or living expense that is expressly fixed by an Act of the Parliament of Canada.

A flat rate car allowance (whether paid monthly, quarterly, annually, or on any other basis) is a taxable benefit included as remuneration subject to EHT. A reimbursement based on a reasonable amount per kilometre is not considered a taxable benefit and is not subject to EHT.

Clergy's housing allowance

Clergy who are provided with free accommodation, or are paid an allowance for accommodation, are required to include the value of the benefit, or the amount of the allowance, as income for income tax purposes. Therefore, although a deduction may be allowed to the recipient under section 8 of the federal ITA, these amounts are subject to EHT.

Board and lodging

The value of free or subsidized board and lodging provided to an employee is a taxable benefit subject to EHT unless provided at a special work site or remote location.

Gifts

In general, a gift to an employee (in cash or in kind) is a taxable benefit and is subject to EHT.

However, under the administrative policy issued by the Canada Revenue Agency (CRA), employers are able to give employees:

- a maximum of two tax-free, non-cash gifts per year provided the total cost of the gifts to the employer (including GST and PST) does not exceed \$500
- a maximum of two tax-free, non-cash achievement or incentive awards per year provided the total cost of the awards to the employer (including GST and PST) does not exceed \$500.

These non-taxable gifts and/or awards are not subject to EHT.

This policy on tax-free gifts and awards does not apply to cash or near-cash gifts and awards such as gift certificates. The value of such gifts and awards is considered a taxable employment benefit and is subject to EHT.

For 2010 and subsequent taxation years, the CRA has made certain changes to its administrative policy on non-cash gifts and non-cash awards. The most significant change is that the employers are able to give each employee an unlimited number of non-cash gifts and non-cash awards per year on a tax-free basis provided that the total cost does not exceed \$500.

Employee loans

A loan is a payment made to an employee that has terms and conditions for repayment, and is not paid in lieu of services performed/to be performed. The principal amount of the loan to employees is not subject to EHT. However, any interest benefit arising as the difference between the amount of the interest that the employee would have paid on the loan for the year at the CRA's prescribed rates and the amount of interest that he/she actually paid on the loan in the year, is a taxable benefit and is subject to EHT.

Directors' fees

Directors' fees or other fees received in the year in respect of holding an office or employment (e.g., amounts received for filling the position of corporate director) are employment income and are subject to EHT.

Management fees

If an employee is paid a management fee, it is included in the employee's income. If a management fee is paid to a company or to a self-employed individual, it is generally not considered remuneration and is not subject to EHT.

In the case of a one-person operation where the business is incorporated and that person is the sole shareholder and works for the corporation, that person is considered to be an employee of the corporation (not self-employed) and the remuneration paid by the corporation (excluding dividends) is subject to EHT.

Employee profit sharing plans (EPSPs)

An EPSP is an arrangement under which an employer pays a portion of its business profits to a trustee to be held and invested for the benefit of its employees who are members of the plan. An employer's contribution to an EPSP is considered remuneration subject to EHT at the time the contribution is made to the plan.

Use of an employer's automobile

The personal use of an employer's automobile is a taxable benefit to the employee. The calculated standby charge and operating benefit (if applicable) are subject to EHT.

Employee trusts

An employer's contribution to an employee trust plan is included in the employee's income when it is allocated by the trustee each year. It is considered remuneration subject to EHT at the time the employer contributes to the plan.

Disability benefits

A disability benefit paid directly by an employer to an employee is included in the income of the employee and is subject to EHT. Similarly, when a disability benefit is paid by a third-party, acting as an agent of the employer under the terms of an Administrative Services Only (ASO) arrangement, the benefit paid is also subject to EHT.

However, disability benefits not subject to EHT include:

- those paid by an insurance company, under the terms of an insurance contract between the employer and the insurer

- those paid by an independent third-party trustee, where there is no employer-employee relationship between the trustee and the recipient.

Salary deferral arrangement payments

The amount that an employee has a right to under a salary deferral arrangement, as defined in the federal ITA, is considered remuneration paid during the year the amount is earned and is subject to EHT at that time.

Tuition fees

A tuition fee that is paid on behalf of an employee, or reimbursed to an employee, is a taxable benefit and is subject to EHT. However, if the tuition relates to a course usually taken for the benefit of the employer, EHT does not apply.

Scholarships

Starting with the 2007 tax year, a post-secondary scholarship or an award paid by an employer to the family members of employees is not considered remuneration paid to the employee, and EHT does not apply.

If a scholarship, or any education expense, is paid by an employer to an individual during employment, or immediately after employment, and an agreement exists that the individual will return to work for the employer after the courses are completed, the amount paid is a taxable benefit and is subject to EHT.

Group term life insurance policies

An employer-paid group term life insurance premium is a taxable benefit for income tax purposes and is subject to EHT.

Employer-paid premiums or contributions not subject to EHT

The following types of employer-paid premiums or contributions are not included in an employee's income for federal ITA purposes and are not subject to EHT:

- registered pension plans
- private health services plans
- supplementary unemployment benefit plans
- deferred profit sharing plans
- retirement compensation arrangements.

Income from an office or employment under section 7 of the federal Income Tax Act

Stock option benefits

Stock option benefits received in the year by employees and former employees for shares of the employer or a connected corporation of the employer (i.e., a corporation with which the employer does not deal at arm's length) are to be included in employment income.

Federal deferral does not apply to EHT

For federal income tax purposes only, an employee can defer taxation of some or all of the benefit arising from exercising stock options to acquire publicly listed securities until the time the employee disposes of the securities.

The federal deferral of taxation on stock option benefits is not applicable for EHT purposes. Employers are required to pay EHT on stock option benefits in the year that the employee exercises the stock option.

Exemption for employers undertaking scientific research and experimental development

For a limited time, employers who directly undertake scientific research and experimental development and meet the eligibility criteria are exempt from paying EHT on stock option benefits received by their employees.

For Canadian Controlled Private Corporations (CCPCs), the exemption is available on employee stock options granted before May 18, 2004, provided that the subject shares are disposed of or exchanged by the employee after May 2, 2000 and on or before December 31, 2009.

For non-CCPCs, the exemption is available on employee stock options granted before May 18, 2004, provided that the options are exercised after May 2, 2000 and on or before December 31, 2009. All stock option benefits arising from employee stock options granted after May 17, 2004 are subject to EHT.

Request for written interpretations

To obtain a written interpretation on a specific situation not addressed in this publication, please send your request in writing to:

Ministry of Finance
Tax Advisory, Employer Health Tax
33 King Street West, 3rd Floor
Oshawa ON L1H 8H5

Related publications

Other publications which provide further details on this topic include:

- **Permanent Establishment**
- **Employer-Employee Relationships**

For more information

Visit ontario.ca/ehf or contact the Ministry of Finance at 1 866 ONT-TAXS (1 866 668-8297) or 1 800 263-7776 for teletypewriter (TTY).

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