



GUIDE FOR EMPLOYERS

November 2009

Employer Health Tax Act

This guide explains the main features of the Employer Health Tax (EHT). It is provided as a guide for employers and is not intended as a substitute for the *Employer Health Tax Act* and Regulations. For specific information please see the *Employer Health Tax Act*, RSO, 1990, C.E.11.

How to order the *Employer Health Tax Act* (EHT act)

To obtain a free copy you can access the Ontario government website at:
To purchase a copy you can access the Ontario government website at:

ontario.ca/e-laws www.serviceontario.ca/publications

Or call toll free:

English/French..... 1 800 668-9938
Teletypewriter (TTY)..... 1 800 268-7095

More information

To obtain the most current version of this publication, or additional information, visit our website at ontario.ca/revenue and enter 643 in the find page field at the bottom of the webpage or contact the Ministry of Revenue at:

1 866 ONT-TAXS (1 866 668-8297)
1 800 263-7776 teletypewriter (TTY)

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 Revenue
Tax Advisory Services Branch

Income Tax Related Programs Section
Employer Health Tax
33 King Street West, 3rd Floor
Oshawa ON L1H 8H5

Introduction

Employers have to pay Employer Health Tax (EHT) on the remuneration (also referred to as payroll) paid to employees or former employees who either:

- report for work at a permanent establishment (also referred to as location) of the employer in Ontario
- do not report for work at any location of the employer, but are paid from a location of the employer in Ontario.

Notes:

- Eligible employers are exempt from EHT on the first \$400,000 of annual payroll.
- Eligible employers who are associated must share the exemption among members of the associated group.
- Employers may be required to pay EHT on payroll paid by a third party to an employee.
- Employers with annual payroll of \$600,000 or less don't have to pay monthly instalments. These employers can make their payment with their annual return. Employers with payroll in excess of \$600,000 must remit monthly instalments.

How to register for EHT

You must register with the ministry if you are an employer and are either:

- not eligible for the tax exemption
- eligible for the tax exemption, with your Ontario payroll over \$400,000 (see page 4 for details on the tax exemption)
- you are associated.

To register for your EHT account, we need the following information from you:

- legal name
- trade name
- business address
- mailing address
- telephone and fax numbers
- name of contact person or authorized representative
- payroll start date
- payroll frequency and amount to determine if you are an annual, monthly, or special filer
- federal business number
- employer type to determine if you are an associated employer, multiple account employer or public sector employer.

You may register for EHT using **any one** of the following methods.

- call the Ministry of Revenue at 1 866 ONT-TAXS (1 866 668-8297)
- make an appointment to visit a representative at a Ministry of Revenue tax office
- use ONT-TAXS online
- visit a ServiceOntario Centre and register electronically by using the self-help workstations or visit the ServiceOntario website
- visit the Canada Revenue Agency (CRA) website at www.businessregistration.gc.ca and register electronically.

Ontario has joined the federal government and other provinces in using the CRA Business Number (BN) to securely identify a business and its associated tax accounts. You only need one BN for access to information about your federal and provincial government tax accounts. EHT accounts will be given extension numbers TExxxx (e.g. TE0001) following the BN.

An employer can have multiple accounts with different extension numbers under one BN. An employer may have separate payrolls for each payroll centre or payroll type. Different extension numbers (e.g. TE0001, TE0002) will be assigned to each payroll account. Multiple account

employers must file separate instalments and annual returns for each account.

Definition of terms

Permanent establishment

A permanent establishment includes an office, agency, branch, factory, farm, warehouse, mine, workshop or any other fixed place of business where day-to-day business activities are carried out. We may use the term "location" to describe a permanent establishment in this guide. For further information, see Information Bulletin entitled Permanent Establishment.

Employer-employee relationship

Where there is an employer-employee relationship, and the employer pays the employee, the payroll is subject to EHT. An employer includes:

- an individual
- corporation
- charity
- non-profit organization
- trust
- partnership
- association
- government (including federal, provincial, municipal, university, school board, hospital).
An employee is an individual who:
 - is employed by an employer
 - holds office from an employer and receives an amount for carrying out the duties of the office
 - was formerly an employee as described above.

For EHT purposes, the ministry considers many factors in the determination of employer-employee relationships, including common law principles and CRA rulings. For further information, see Information Bulletin entitled How to Identify an Employer-Employee Relationship.

Remuneration

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

We may use the word "payroll" to mean the same as remuneration in this guide.

Examples of payroll include salaries and wages, gratuities paid through an employer, bonuses, commission and other similar payments, vacation pay, taxable allowances and benefits, directors' fees, payments for casual labour, amounts paid by an employer to top up benefits, and advances of salaries and wages.

Employers must include amounts paid to former employees in their calculation of remuneration for the year. For example, taxable benefits provided to retired employees should be included even though reported on a T4A.

Employers must include stock option benefits received by employees and former employees for shares of the employer corporation or a connected corporation of the employer (e.g., a corporation with which the employer does not deal at arm's length).

Employers with employees eligible for the federal deferral of taxation on stock option benefits must pay EHT on stock option benefits at the time their employees exercise such stock options. The federal deferral of taxation on stock option benefits is not applicable for EHT purposes.

For EHT purposes, an exemption on stock option benefits is provided to eligible research and development-intensive (R&D) employers.

- For non Canadian-controlled private corporations, the exemption is available on employee stock options granted before May 18, 2004, if the options are exercised after May 2, 2000 and by December 31, 2009.
- For Canadian-controlled private corporations, the exemption is available on employee stock options granted before May 18, 2004, if the subject shares are disposed of or exchanged by the employee after May 2, 2000 and by December 31, 2009.

For R&D employers, all employee stock option benefits from options granted after May 17, 2004 are subject to EHT.

For further details on stock option benefits, please write to:

Ministry of Revenue

Tax Advisory Services Branch
Income Tax Related Programs Section
Employer Health Tax
33 King Street West, 3rd Floor
Oshawa ON L1H 8H5

Total Ontario remuneration

Total Ontario remuneration for an employer means payroll for:

- employees who report for work at the employer's Ontario location
- employees who do not report for work at any location of the employer but who are paid from the employer's Ontario location.

An employee reports for work at a location of an employer if the employee comes to the location in person to work, or is reasonably regarded as attached to the location.

If an employee reports for work at locations of the employer in Ontario and also outside Ontario during a year, all of the payroll for the employee is subject to EHT. However, if the employee reported for work at the location outside Ontario, for all or substantially all of the year, none of the payroll for the employee is subject to EHT. All or substantially all generally means 90 per cent or more.

For further information, see Information Bulletins entitled Remuneration and Permanent Establishment.

Tax exemption

Eligible employers are exempt from EHT on the first \$400,000 of Ontario payroll each year. **Only one exemption is available for an associated group of employers.** The entire tax exemption amount may be allocated to one member of the associated group or it may be shared among the associated employers (see page 5 for the definition of associated employers).

Eligible employers for the tax exemption generally include the following:

- private sector employers
- organizations that receive financial assistance from any level of government but are not under the control of government
- Crown corporations subject to tax under Part I of the *Income Tax Act* (Canada).

Non-eligible employers include the following:

- public sector employers, including federal, provincial and municipal governments, universities, colleges, school boards and hospitals
- Crown agencies **not** subject to tax under Part I of the *Income Tax Act* (Canada)
- employers exempt from income tax under paragraphs 149(1)(a) to (d.6), (h.1), (o) to (o.2), (o.4) to (s.2), and (u) to (z) of the *Income Tax Act* (Canada); for example, municipal and provincial corporations and certain trusts.

For further information, see Information Bulletin entitled Tax Exemption.

Notes:

It is your responsibility to contact the Ministry of Revenue if your Ontario payroll for the year exceeds the exemption amount. This will ensure that annual returns and statements are issued. Similarly, it is your responsibility to contact us if your Ontario payroll goes over \$600,000 as you must start paying monthly instalments.

Multiple account employers

Multiple account employers have more than one EHT account set up for payroll centres or types. Multiple account employers can allocate the exemption to any of their multiple accounts to the extent that it does not exceed the total exemption allowed for the employer for the year.

Part-year employers (open/close a business or bankruptcy)

An employer that is eligible for only part of the year, including the first or last year of business in Ontario, the year of bankruptcy, amalgamation or change in eligibility status, must prorate the exemption amount. Prorate by the number of days in the calendar year that the employer had a location in Ontario with payroll, and was eligible for the exemption.

Amalgamation

When two or more corporations amalgamate, they must advise the ministry and a new account extension will be issued to the new amalgamated corporation. The previous account extensions will be closed and final returns issued. The previous corporations must file final returns within 40 days of amalgamation and remit any outstanding liabilities. They will be entitled to a prorated exemption for the final year. The new amalgamated corporation should file for a prorated exemption from the date of the amalgamation.

Associated employers

Associated employers are connected by ownership or by a combination of ownership and relationship of the employers, either through blood, marriage or adoption. The rules for associated corporations, under section 256 of the *Income Tax Act* (Canada), are used to determine if employers are associated for EHT purposes. Although these rules refer to corporations, they are extended under the EHT act to include individuals, partnerships and trusts.

Associated employers **must** have an agreement allocating the exemption for the year among the group of employers, otherwise none of the employers in the group will qualify for the exemption. All associated employers must file a copy of the Associated Employers Exemption Allocation Schedule with their annual returns.

For further information, see Information Bulletin entitled Associated Employers.

Amount of tax payable

The amount of EHT payable is calculated by multiplying the employer's taxable Ontario remuneration for the year by the applicable tax rate (see Tax rates).

Note:

Taxable Ontario remuneration is the amount of payroll paid to employees or former employees, above the exemption amount.

Tax rates

Total Ontario Remuneration Rate	
Up to \$200,000.00.....	0.98%
\$200,000.01 to \$230,000.00.....	1.101%
\$230,000.01 to \$260,000.00.....	1.223%
\$260,000.01 to \$290,000.00.....	1.344%
\$290,000.01 to \$320,000.00.....	1.465%
\$320,000.01 to \$350,000.00.....	1.586%
\$350,000.01 to \$380,000.00.....	1.708%
\$380,000.01 to \$400,000.00.....	1.829%
Over \$400,000.00.....	1.95%

- The tax rate is based on the total Ontario payroll before deducting any tax exemption.
- The tax rate for a **multiple account employer** is based on the combined Ontario payroll amount of all the employer's accounts.
- The tax rate for an **associated employer** is based on the total Ontario payroll amount of each legal entity.

Example:

A Total Ontario remuneration	B Tax rate (based on A)	C Exemption amount	D Taxable Ontario remuneration (A minus C)	E Tax payable (D multiplied by B)
\$500,000	1.95%	\$400,000	\$100,000	\$1,950.00

Details of instalment and filing requirements

Follow these steps:

1. Decide if you are an eligible or a non-eligible employer (see page 4).
2. Calculate your total Ontario payroll for the year.
3. Refer to the chart on page 6 for your instalment and filing requirements.

Instalment and filing requirements chart Effective January 1, 2000

Remuneration	Eligible employers	Non-eligible employers
Ontario payroll up to \$400,000	No instalments No annual return required (note 5)	No instalments Annual return required by March 15th of the following year (note 3)
Ontario payroll \$400,000.01 to \$600,000 (note 2)	Subtract available exemption amount from total Ontario remuneration No instalments Annual return required by March 15th of the following year (note 3)	No instalments Annual return required by March 15th of the following year (note 3)
Ontario payroll over \$600,000	Subtract available exemption amount from total Ontario remuneration (note 1) Monthly instalments required	Monthly instalments required by the 15th of the following month (note 4) Annual return required by

	by the 15th of the following month (note 4) Annual return required by March 15th of the following year (note 3)	March 15th of the following year (note 3)
Once-a-year Ontario payroll over \$400,000 (note 6)	Subtract available exemption amount from total Ontario remuneration No instalments Special return required by the 15th of the following month	No instalments Special return required by the 15th of the following month (note 6)

Note 1: Eligible employers do not need to pay monthly instalments until the cumulative Ontario payroll exceeds the allocated exemption amount.

Note 2: Employers with Ontario payroll of \$600,000 or less are not required to remit monthly instalments. However, they may choose to pay monthly instalments for their convenience.

Note 3: Total payment of EHT is required by March 15th of the next calendar year with the filing of the annual return. For example, EHT owed on payroll for the 2008 year (January 1, 2008 to December 31, 2008) must be paid with the filing of the 2008 Annual Return on or before March 15, 2009.

Note 4: The first instalment for the year is due February 15th of the year and the last instalment is due January 15th of the following year. Where the 15th falls on a weekend, payments will be accepted as being made on time if received on the next business day.

Note 5: Associated employers must file an annual return regardless of the level of their total Ontario payroll (see page 5).

Note 6: Employers who pay the total Ontario remuneration during one month (i.e. yearly remuneration paid once/year) are not required to make monthly instalments. They must file a special return within 15 days following the month in which the payroll was paid. If the employer makes a second remuneration payment in the same year, the employer should immediately contact the Ministry of Revenue for direction on how to remit the additional EHT.

Instalment statement

Before the instalment due date, employers will receive a Statement of Account which includes the

EHT instalment remittance form (bottom portion). Payroll information should be completed on the remittance form and returned with the required payment. The top portion contains employer account information and should be kept by the employer.

If an employer is required to make instalment payments (i.e. annual payroll over \$600,000) and does not receive the Statement of Account in time to meet the due date, the employer can provide a letter to the Ministry of Revenue with the payment, stating the following:

- account number, name and address
- BN and extension
- the period covered
- the amount of taxable Ontario remuneration
- the amount of tax owing.

This letter and payment must be received by the ministry by the due date.

Calculating instalment amounts

EHT instalment amounts are based on the actual payroll for the month. The instalment tax rate is based on the previous year's payroll. The tax due for the year and the tax paid by instalments are both based on the calendar year.

Most employers who pay monthly must use a tax rate of 1.95%. If you are not eligible for the tax exemption, or you are part of an associated group, with an annual payroll under \$400,000 and you choose to remit monthly payments, you can find your tax rate from the table on page 5.

After the end of each calendar year, you should total your annual payroll and use this amount to determine your tax rate. You will use this tax rate to calculate your monthly instalment amounts in the upcoming year.

Multiple account employers must base the tax rate on the total of the previous year's remuneration for the legal entity. For EHT purposes, a legal entity may be a corporation, a trust, a sole proprietorship, a partnership, an association, or an individual.

New employers must estimate the legal entity's annual remuneration for the first and second years to determine the instalment tax rates for the first two years.

Impact of the tax exemption on instalments

The instalment example on page 8 shows an eligible employer claiming the full exemption amount of \$400,000. The employer's total Ontario remuneration exceeds \$600,000; therefore, the employer must remit monthly instalments once its payroll exceeds \$400,000.

Associated employers, whose available exemption amount is less than \$400,000, must adjust the available exemption amounts accordingly.

Instalment example:

Current month	A Ontario remuneration	B Cumulative Ontario remuneration	C Available exemption	D Taxable Ontario remuneration (A minus C)	E Instalment due $D \times 1.95\%$ (Tax rate)	Instalment due date
January	\$90,000	\$90,000	\$90,000	\$0	\$0.00	February 15*
February	80,000	170,000	80,000	0	0.00	March 15
March	85,000	255,000	85,000	0	0.00	April 15
April	90,000	345,000	90,000	0	0.00	May 15
May	90,000	435,000	55,000	35,000	682.50	June 15**
June	80,000	515,000		80,000	1,560.00	July 15
July	85,000	600,000		85,000	1,657.50	August 15
August	90,000	690,000		90,000	1,755.00	September 15
September	80,000	770,000		80,000	1,560.00	October 15
October	85,000	855,000		85,000	1,657.50	November 15

November	90,000	945,000		90,000	1,755.00	December 15
December	150,000	1,095.00		150,000	2,925.00	January 15
TOTAL		\$1,095.00	\$400,000	\$695,000	\$13,552.50	

* Employers in the monthly filing category must pay instalments on the 15th of each month, starting February 15th of the year until January 15th of the following year. Each monthly instalment is calculated using the previous month's Ontario payroll.

** The first \$400,000 of Ontario payroll is exempt from EHT. An employer is not required to remit instalments until the cumulative payroll for the year exceeds the employer's available exemption amount for the year. In the above example, the employer would remit the first instalment on June 15th.

Filing returns

Annual return - due March 15th

The annual return process ensures that an employer's combined payments (i.e., instalments plus any annual return payment) equal the tax due for the year.

The annual return and any tax owing are due on or before March 15th of the following year. For example, the annual return for 2008 is due on or before March 15, 2009. Where the 15th falls on a weekend, annual returns and payments will be accepted as being made on time if received on the next business day.

The annual return must be signed by the employer or an authorized officer of the employer or by a third party agent (e.g., a payroll service provider, accountant, etc.). The third party authorization form entitled "Authorizing or Cancelling a Representative" must be provided to the ministry if you wish to designate a representative. **Annual returns are not accepted at financial institutions.**

Note: Filing returns for multiple account employers

A separate annual return must be filed for each of the accounts. A multiple accounts schedule must be completed and submitted with the annual return of one of the accounts designated by the employer. To calculate the tax owing for each account, the rate based on the entire legal entity's remuneration must be used.

After your annual return is processed, a Notice of Assessment is sent to tell you if any amount is owing or refundable.

Final return - due 40 days after business closure date

Employers who close their Ontario location, who have amalgamated, or who no longer have employees in Ontario must advise the Ministry of Revenue. An EHT Final Return must be filed, within 40 days of the business closure date, for the part of the calendar year that payroll was paid. Final payment of any tax owing must be sent with the final return.

A change in the ownership of shares is not considered a change in legal entity, and does not trigger any change in the EHT account. No final return is necessary.

Bankruptcy: Trustees in bankruptcy and other insolvency administrators must notify the ministry of their appointment within ten days of the appointment date. The information may be provided in writing, or by fax, to: Ministry of Revenue, Revenue Collections Branch, Insolvency Unit, 33 King Street West, 6th Floor, Oshawa, ON L1H 8H5; fax number 905 436-4524.

The bankrupt employer is required to file a pre-bankruptcy return for the year, and any outstanding returns for the previous year, within 40 days of the date of bankruptcy or insolvency appointment.

Special return - due 15 days following the month in which the remuneration is paid

Eligible employers who pay their entire Ontario payroll of more than \$400,000 in one month must file a special return 15 days following the month in which the payroll is paid.

Out-of-province employers

An out-of-province employer is an employer who does not ordinarily have a location in Ontario, but will have one for a period not exceeding 24 months. Before commencing business in Ontario, the out-of-province employer must provide security to the ministry for any tax that will be payable under the EHT act.

For further information on out-of-province employers, contact the Ministry of Revenue at 1 866 ONT-TAXS (1 866 668-8297).

Payment options

ONT-TAXS online: ONT-TAXS online is Ontario's secure, convenient and free online tax service for businesses and their representatives. It saves time and money, reduces paper and is available 24 hours a day, seven days a week. Employers can access their EHT accounts online to

make payments. To learn more about ONT-TAXS online, visit the ministry website at ontario.ca/revenue.

At a financial institution: Monthly payments may be made free of charge, by the due date, at a financial institution in Ontario. Employers will need the instalment remittance form (bottom portion of their Statement of Account) to make the payment. Employers should retain the top portion of the statement, date stamped by their financial institution, as proof of payment. **Annual, final and special returns are not accepted at financial institutions.**

By mail: The instalment remittance form (bottom portion of the Statement of Account) and payment may be mailed in the envelope provided. This must be received by the ministry by the due date to avoid any late-filing penalties. Where the 15th falls on a weekend, payments will be accepted as being made on time if received on the next business day.

By internet: Monthly instalments may be made electronically, using a financial institution's online payment service. Customers of a financial institution may access this service 24 hours a day, seven days a week. To learn more about using financial institutions to pay taxes online, visit the ministry website at ontario.ca/revenue. The employer should contact the financial institution for assistance when accessing or navigating these electronic services.

In person: The payment (no cash please) and instalment remittance form (bottom portion of the Statement of Account) may be delivered to any Ministry of Revenue tax office (in the drop boxes provided) or to a ServiceOntario location by the due date.

Tax assessment

When the EHT return is processed, employers will receive a Notice of Assessment. This notice confirms the taxation period account balance as of the assessment date.

Any unpaid tax, interest, or penalties must be paid within 30 days of the date of the assessment. Interest is calculated on a daily basis from the due date of the return.

Penalties and interest

An employer who does not file an instalment or the return by the due date may be charged a penalty. An instalment is considered delivered on the date it is **received** by the Ministry of Revenue, or on the date it is received by a financial institution in Ontario. A return is considered delivered on the date it is **received** by the ministry. **Annual, final and special returns are not accepted at financial institutions.** Interest is charged on any outstanding balance on the employer's account at the rate set by the ministry. For further information, see Information Bulletin entitled Penalties and Fines.

Note:

Interest rates may change quarterly, at the beginning of January, April, July and October.

Refunds and overpayments

After filing the return, an overpayment will be refunded to eligible employers. The overpayment may be applied to the balance of any tax owing by the employer under any other act administered by the Ministry of Revenue. In these cases, the employer will be informed by the ministry. An employer may also apply for a refund of any overpayment, within four years from the return's due date.

Objections and appeals

You should contact the Ministry of Revenue at 1 866 ONT-TAXS (1 866 668-8297) if you require an explanation or would like to discuss your assessment or disallowance.

Notice of objection

If you are still dissatisfied with an assessment or a disallowance after discussing it with ministry staff, you may file a Notice of Objection with the ministry's Tax Appeals Branch at 1600 Champlain Avenue, Whitby ON L1N 9B2. You must send the Notice of Objection to the branch within 180 days from the date of the Notice of Assessment. The Tax Appeals Branch will review the objection and notify you of a decision in writing.

Note:

Payment of an assessment must be made within the specified time, even if an objection is filed.
Notice of appeal

The minister's decision on the objection may be appealed to the Superior Court of Justice. The Notice of Appeal must be received by the ministry (c/o Director, Tax Appeals Branch) and filed in the Superior Court of Justice within 90 days from the date that the minister's decision was mailed. For further information, see the publication entitled *Objection and Appeal Procedures for Ontario Taxes and Programs*.

Note:

You can obtain Notice of Objection and Notice of Appeal forms from the ministry website.

Retention/destruction of books and records

Employers paying EHT must keep records and books of accounts containing information confirming that the employer is complying with the EHT act and regulations.

For further information, see Tax Information Bulletin entitled Retention/Destruction of Books and Records.

Audit of employer's account

Auditors may carry out audits at your place of business to ensure that you are in compliance with the EHT act and Regulations.

For further information, see Tax Information Bulletin entitled What to Expect During an Ontario Ministry of Revenue Audit.

Confidential informations

The Ministry of Revenue is responsible for collecting and maintaining confidential employer information.

Employers can access their EHT accounts 24 hours a day, seven days a week with ONT-TAXS online. ONT-TAXS online uses the Government of Ontario's secure online registration service, *ONe-key*, to protect tax client information. *ONe-key* verifies your identity, authorizes your access and allows you to securely do business with the government online. To learn more about the ministry's secure online service, visit the ministry website at ontario.ca/revenue.

When an employer makes account-related enquiries by phone or by mail, the employer will be required to prove authorization by providing the following information:

- employer's name, address, and BN
- name, telephone number and position in the employer's organization or his/her position as a representative of the employer.

When an employer's representative makes an enquiry, the *Freedom of Information and Protection of Privacy Act* precludes the Ministry of Revenue from providing taxpayer information to third parties, unless the ministry has the taxpayer's written consent. Therefore, when accountants, lawyers, or other third parties make enquiries for clients, the third party must include the client's authorization in the request. Visit the ministry website for a copy of the Authorizing or Cancelling a Representative form. An employer can provide authorization and access to a representative to use ONT-TAXS online on their behalf.

Note:

This guide, as well as information bulletins, returns and forms may be obtained by contacting the Ministry of Revenue at the number listed on the inside cover of this guide.