



Ontario Government Extends the Protection of Commercial Tenants

Government rent relief for commercial tenants will continue into the middle of 2021 under the new Canada Emergency Rent Subsidy (“**CERS**”) program. CERS, which began accepting applications on November 23, 2020, succeeded the Canadian Emergency Commercial Rent Assistance Program (“**CECRA**”) in order to provide continued relief to commercial tenants (and property owners) who have suffered revenue declines as a result of COVID-19.

The CERS program is designed to provide rent and other relief to businesses, non-profits and charities that have experienced revenue declines during the COVID-19 pandemic. It is intended to improve upon the CECRA program, which relied on landlords to apply for relief rather than allowing tenants to directly apply for relief. Under CERS, businesses and organizations can apply for relief in relation to any eligible expenses. CERS will take retroactive effect to September 21, 2020, and will continue through to June 2021. Applicants will file claims for specific claim periods, the first being the period from September 27, 2020 to October 24, 2020, and will have 180 days following each claim period to file their claim.

The subsidies available under CERS are broken down into categories. The first is the base subsidy, which is capped at \$75,000 per claim period, and \$300,000 total maximum subsidy as between all affiliated entities per claim period. The amount of the base subsidy is calculated based on the percentage decline in revenues of the tenant (as compared to the same period during the previous year or average revenues for January and February 2020). The second subsidy available is the lockdown support top-up, which can be claimed by a tenant that has been forced to shut down its business due to COVID-19. The top-up is equal to 25% of eligible expenses, capped at \$75,000 per claim period. The lockdown support top-up is not subject to the \$300,000 cap set out above.

In order to be eligible, expenses must have arisen under an agreement entered into between arm’s-length entities before October 9, 2020.

Please don’t hesitate to reach out if you want to discuss further. We are always available to assist property owners and tenants in understanding the options available to help overcome the hurdles presented by COVID-19.

Contacts



Fiona Brown

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Fiona has extensive experience advising international businesses entering the Canadian market. To date, she has advised more than 100 companies expanding into Canada. Fiona advises clients in this space all day, every day. She has been practising for more than a decade and is a regular speaker and writer on market expansion matters. Fiona is proud to have been recognized by *The Best Lawyers in Canada*, *The Canadian Legal Expert Directory* and *Benchmark Canada*.

A proactive and comprehensive approach is required to succeed in a new market. Fiona manages teams of other lawyers and patent agents to provide her clients with a full range of legal services to help their businesses grow. She acts as project manager to ensure her clients receive seamless legal services in all relevant areas.

Fiona takes great care to understand her clients' businesses and deliver advice tailored to meeting their specific needs. Her responsiveness, dedication to communication and hands-on approach show she is personally invested in her clients' success.



Aaron Baer

Partner

With a strong education and background in business, Aaron brings a sensibility for framing his legal advice from the perspective of a business professional. The underlying question that consistently guides his work is whether he is adding value to his clients and furthering their business objectives.

Aaron has helped dozens of companies from the U.S., Europe, and Central and South America establish Canadian subsidiaries. He works closely with Aird & Berlis tax experts to ensure subsidiaries are set-up in a tax efficient manner. As a member of the firm's Privacy & Data Security Group, Aaron regularly advises companies that are establishing Canadian operations about Canadian privacy matters.



Kenneth Pimentel

Associate

Kenneth is a member of the firm's Real Estate Group. His practice focuses on all facets of real estate transactions, including the acquisition, disposition, development, financing and leasing of commercial, office, retail and industrial lands. As a former litigator practising primarily in the area of commercial real estate, Kenneth also has extensive experience dealing with a broad range of commercial real estate disputes.

Kenneth brings a practical, efficient and business-minded approach to every real estate and commercial leasing transaction. Acting for both landlords and tenants as well as owners, purchasers and lenders, Kenneth provides exceptional service to support his clients' objectives.