Proposed flexibility of maternity/parental EI benefits and leaves under the Canada Labour Code will result in increased employer administrative burden and human resource costs

The Canadian Payroll Association (CPA) is very concerned with the potential impacts of the proposed expansion of maternity/parental benefits and leaves under the Canada Labour Code, as proposed in Bill C-44 — Budget Implementation Act, 2017, No. 1. Following the original proposal, the CPA immediately received feedback from employers and surveyed others that are on its Board and Government Relations Advisory Councils, which resulted in a consistent position of extreme concern from employers.

If the proposed 18-month flexible maternity/parental changes are approved by Parliament, employers will be faced with higher top-up expenses and indirect costs associated with holding and resourcing positions for extended periods of time, and responding to multiple leaves, resulting in increased administration, recruitment, training, and benefit expenses. (The CPA is pleased that the Budget tabled on March 22, 2017 indicates the proposal is for an irrevocable choice between receiving regular EI benefits for 12 month and reduced EI benefits for 18 months.)

Employers and CPA members identified the following challenges related to the proposed flexibility from 12 to 18 months of leave.

1. Employers will incur increased costs in maternity/parental top-up payments when employees choose lower EI benefits over a longer leave period. While the CPA understands that the role of government is not to interfere with employee and employer benefits, this proposed measure changes the basis on which these benefits were founded. EI flexibility could very well come at the cost of employers cancelling their top-up plans because of the two-fold prohibitive costs: 1) requiring a greater top-up rate to make up for the lower EI benefits rate chosen, and 2) requiring top-up payments for 18 months instead of the current 12 months.

2. Feedback from small to medium sized organizations indicate they cannot see how they can respond to 18-month absences. Their limited number of staff performing core functions in small operations makes cross-training and coverage very difficult. The small operator may consider severing the employee-employer relationship.

3. Many registered pension plans (RPPs), and collective agreements require employers to assume employee contributions during periods of approved unpaid leave; therefore, six months of additional contributions for each maternity/parental leave would result in significant additional RPP costs for employers.

4. Additional costs of employer paid benefits if they are required to be provided over a longer leave (the cost in BC can be significantly higher than in other provinces if the employer pays the BC Medical Services Plan (MSP) premiums).

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5. Employers will experience an **increased cost of pension and benefits administration** relating to the recording and reporting of a longer leave period and collection of benefits premiums from employees who are on leave.

6. Being off work longer increases the likelihood that industry changes, system upgrades, technological improvements, employer processes, etc., will occur while employees are off work. The costs to employers to **retrain** employees can be very significant.

7. Most defined benefit plans offer **buy-back provisions** which permit employees to purchase the leave period and the employer matches the employee’s pension contribution. The cost to employees to buy back an 18-month leave will be too prohibitive for some, which could result in a smaller pension for the plan member.

8. There could be **difficulties between the employees and employers when negotiating the timing of the additional leaves of absence**. Certain times of the year are particularly busy for retail, hospitality and other industries, which require additional commitments, staffing and effort to meet tight deadlines. Employees; however, may prefer to schedule their leaves during these months, especially if there are multiple children who are home from school.

9. If employees used their **accrued vacation to extend their leave, this could result in them being off work for several additional weeks**.

10. Provincial and territorial Ministries of Labour may have reluctance to legislate similar job-protected leaves given the employer impacts listed above, which could result in court cases and class action suits against employers who did not grant job-protected leave to correspond to the EI benefit period.

11. EI benefits are only 55% of income up to the year’s maximum insurable earnings and an 18-month leave would result in significantly reduced benefits each week; therefore, **would there be enough adoption of extended leaves by employees to justify the administration, processing and systems costs to employers, payroll service providers, software developers, and Service Canada?**

In addition to these 11 identified issues, payroll service providers and software developers will incur additional programming costs and require a longer implementation period. In order to meet any proposed date, two of Canada’s biggest payroll service providers have identified the following:

12. An **18-month implementation will be necessary if the ROE itself and the maximum EI history data reported on it (53-week period) require re-programming** to a 79-week period that is not in current payroll systems. There are over 50 payroll service and software providers that will need to expand their systems.
13. Some payroll system platforms cannot amend ROEs that were originally issued longer than 12 months prior, and others would require significant development. For example, an employee who doesn’t return after a leave and needs vacation pay to be paid out and reported “in which” it is paid: the employee wouldn’t be issued a new ROE (no new first day worked or last day for which paid) and the payroll professional may not be able to amend an original SAT ROE that was issued greater than 12 months prior (particularly for weekly frequency payrolls). It’s possible that a Service Canada exception process could be developed to address reporting for these individuals.

14. Secure Automated Transfer (SAT) edits: It’s understood that SAT validation edits may be required and we would look forward to receiving notice of any such changes as soon as possible, with a reasonable timeframe for their release/implementation.

While it was an election platform idea and is a laudable gesture to provide more flexibility for parents, the proposed changes to maternity/parental leave increases the administrative burden on employers, payroll service providers and software developers, and on Service Canada staff at a time when responding to EI claims is being looked at for greater efficiencies by the EI Service Quality Review (SQR) Panel. (Canada’s 12-month maternity and parental leave is already well ahead of its largest trading partner – the USA.)

About the Canadian Payroll Association
The CPA has been representing employers’ payroll interests since 1978, through its core purpose of Payroll Compliance through Education and Advocacy and its values of Community, Professionalism and Authoritative Compliance Knowledge. Professional payroll administration is mission-critical because of the magnitude of the remuneration by employers and the breadth of the legislative compliance requirements.

Canada’s 1.5 million employers count on payroll professionals to annually pay $928 billion in wages and taxable benefits, $313 billion in federal and provincial statutory remittances, including $23.5 billion in EI premiums, and $177 billion in health and retirement benefits, as well as produce 26 million T4s, 9 million T4As, and 7 million RL-1s - all while complying with over 200 regulatory requirements.

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