

**Updated March 2014**

Explanatory Notes on the application of the OPSEU Collective Agreement were developed by the Employer in consultation with OPSEU. They have been written to provide information to OPS managers and employees represented by OPSEU. Explanatory Notes are not intended as a substitute for the language of the Collective Agreement. Reliance should only be placed on the actual text of the OPSEU Collective Agreement.

This updated Explanatory Note and the amended provisions of Article 20 under the 2013-2014 OPSEU Collective Agreement apply as of April 1, 2013.

Managers who have questions about the information in this Explanatory Note should contact their designated Human Resource contact.

Employees who have questions about the information in this Explanatory Note should contact their manager, the Human Resource Advisor or an OPSEU representative. Employees who have received a notice of layoff should contact the designated Human Resource contact that is identified in their notice of layoff letter.

### **What is the entitlement to tuition reimbursement?**

There are two provisions that allow for reimbursement of tuition expenses for laid off employees.

- 20.5.1 On production of receipts from an approved educational program within twelve (12) months of layoff, an employee shall be reimbursed for tuition fees up to a maximum of three thousand dollars (\$3,000.00).
- 20.5.2 Where an employee takes a program or course with the approval of the Employer, for the purpose of upgrading his or her employment-related skills, the Employer shall defray all or part of the tuition in accordance with the Employer's normal policy.

### **What are the criteria for tuition reimbursement following lay-off (20.5.1 above)?**

Employees who receive pay-in-lieu, resign, retire or are otherwise not laid off at the end of the notice period shall not be eligible for tuition reimbursement pursuant to 20.5.1.

The laid off employee must:

- produce original receipts from an approved educational program (see below for description);
- the dates on the receipts must be following lay-off; and
- submit receipts within 12 months of lay-off.

Note that in situations where because of the timing of the notice an employee is unable to register and hence obtain receipts within 12 months of lay-off, tuition reimbursement can be made for tuition costs for the next available enrolment period. In these situations, the onus is on the employee to demonstrate that they could not provide receipts within the stated time frame because he or she was unable to register for the course or program. Typically this would be by providing information indicating that he or she was refused registration at the first available opportunity to register for a course or program. Further, if an employee has submitted receipts and/or has been reimbursed for tuition fees and is subsequently recalled (in accordance with Article 20.6), the employee will not be required to repay tuition fees to the Employer.

### **What are the criteria for tuition assistance for employment-related learning during the notice period (20.5.2 above)?**

The criteria are set out in the OPS policy on learning, the Learning Operating Policy, and the accompanying guidelines Employee Services - HROntario Services - HROntario Services - Heading: Key Documents - Policies and Directives - Human Resources Management - Heading: Policies - Learning and Development Policy. Questions not answered in the material can be directed to your designated HR contact.

Note that this is no different than the practice for all employees and is included in Article 20 to reaffirm the Employer's commitment to apply this policy to all employees, including those on notice of layoff.

### **What is an approved educational program?**

"Approved educational program" usually refers to a program or course offered by a public, private, or not-for-profit organization for which a receipt is issued which is recognized by Canada Revenue Agency as acceptable for tax purposes, such as:

- a community college or university;
- a board of education; or
- a private vocational school certified by the Minister of Human Resources and Skills Development, Canada.

Tuition reimbursement for receipts issued by an institution outside of Ontario or Canada is allowed.

“Approved educational program” can also refer to a workshop/seminar or a self-development, general knowledge or job search type of course. Receipts for these types of courses/programs are also required; however, these receipts are not recognized generally by Canada Revenue Agency for tax purposes. See below for more information on tax implications.

## **Are there any tax implications for receiving tuition reimbursement for an approved educational program?**

Yes, dependent on the type of training.

The federal tax information below is provided for information only and is current as of the release of this explanatory note. Because tax information can be updated at any time, the reader is directed to the Canada Revenue Agency website to verify the information contained herein.

The following is an excerpt from Canada Revenue Agency’s bulletin IT-470R ((Consolidated) Employees' Fringe Benefits), Section 18: Employer-Paid Educational Costs ([http://www.cra-arc.gc.ca/E/pub/tp/it470r-consolid/it470r-consolid-e.html#P136\\_14608](http://www.cra-arc.gc.ca/E/pub/tp/it470r-consolid/it470r-consolid-e.html#P136_14608)).

- 18.** When training is taken primarily for the benefit of the employer, there is no taxable benefit whether or not this training leads to a degree, diploma or certificate. A taxable benefit arises when the training is primarily for the benefit of the employee.

The following guidelines assist in the determination of whether there is a taxable benefit; however, they do not necessarily apply in non-arm's length relationships or in specific examples in which there is evidence that the benefit was in fact primarily for the employee. This will be the case, for example, if the employee and the employer have entered into an arrangement under which the remuneration ordinarily paid to the employee is reduced in recognition of training costs incurred by the employer.

There are three broad categories of training:

**Specific Employer-Related Training:** Courses which are taken for maintenance or upgrading of employer-related skills, when it is reasonable to assume that the employee will resume his or her employment for a reasonable period of time after completion of the courses, will generally be considered to primarily benefit the employer and therefore be non-taxable. For example, fees and other associated costs such as meals, travel and accommodation which are paid for courses leading to a degree, diploma or certificate, in a field related to the employee's current or potential future responsibilities in the employer's business, will not result in a taxable benefit.

**General Employment-Related Training:** Other business-related courses, although not directly related to the employer's business, will generally be considered non-taxable. Examples of non-taxable training would include stress management, employment equity, first-aid and language skills. Normally, in-house training will not be considered a taxable benefit.

**Personal Interest Training:** Employer-paid courses for personal interest or technical skills that are not related to the employer's business are considered of primary benefit to the employee and thus taxable. For example, fees paid for a self-interest carpentry course would result in a taxable benefit.

The Canada Revenue Agency also has information on the Tuition Tax Credit (S1-F2-C2), (<http://www.cra-arc.gc.ca/tx/tchncl/ncmtx/fls/s1/f2/s1-f2-c2-eng.html#N10784> ).

The following is an excerpt setting out eligible fees.

## Eligible Tuition Fees

2.34 The following items that relate to a particular program (whether identified separately or included as course or subject fees) are considered eligible tuition fees:

- (a) admission fees;
- (b) charges for use of library or laboratory facilities;
- (c) exemption fees;
- (d) examination fees (including re-reading charges) that are integral to a program of study;
- (e) application fees (but only if the student subsequently enrolls in the institution);
- (f) confirmation fees;
- (g) charges for a certificate, diploma or degree;
- (h) membership or seminar fees that are specifically related to an academic program and its administration;
- (i) mandatory computer service fees; and
- (j) academic fees

When the Goods and Services Tax (GST) or Harmonized Sales Tax (HST) is added to a tuition fee, that is eligible for the tuition tax credit, the amount of the fee including the GST or HST is eligible for the tuition tax credit.

## Amounts that are not eligible tuition fees

2.3 Fees for the following items (whether identified separately or included as course or subject fees) are **not** considered eligible tuition fees:

- (a) student social activities;
- (b) medical expenses;
- (c) transportation and parking;
- (d) board and lodging
- (e) goods of enduring value that are to be retained by students (for example: microscope, uniform, gown, computer, etc.);
- (f) initiation fees or entrance fees to professional organizations including examination fees or other fees (such as evaluation fees) that are not integral to a program of study at an eligible educational institution;
- (g) administrative penalties incurred when a student withdraws from a program or an institution; and
- (h) the cost of books (other than books, compact disks or similar material included in the cost of a correspondence course when the student is enrolled in such a course given by an eligible educational institution in Canada).