

COVID-19: CANADA EMERGENCY WAGE SUBSIDY, CANADA TEMPORARY WAGE SUBSIDY AND CANADA EMERGENCY RESPONSE BENEFIT SUMMARY

	CANADA EMERGENCY WAGE SUBSIDY (CEWS)	TEMPORARY 10% WAGE SUBSIDY	CANADA EMERGENCY RESPONSE BENEFIT (CERB)
EMPLOYER STATUS REQUIREMENT	<ul style="list-style-type: none"> Individuals Taxable corporations Non-profit organizations (includes boards of trade, chambers of commerce, and labour organizations) Registered charities (unless they fall within the exclusions below) Partnerships, all of the members of which are described in the first 4 bullet points Any other organization prescribed by Regulation (none currently prescribed) EXCLUSIONS: municipal authorities, First Nation bands, corporations owned by 90% or more by any level of government (and corporations owned by those corporations), schools, school boards, hospitals, health authorities, public universities, and colleges 	<ul style="list-style-type: none"> Individuals Canadian-controlled private corporations with more than \$0 of small business limit in its last taxation year (taxable capital (i.e. assets employed in business) in Canada for the preceding taxation year, calculated on an associated group basis, must be less than \$15 million dollars) Partnerships consisting exclusively of the first two bullet points Non-profit organizations Registered charities 	<ul style="list-style-type: none"> None
EMPLOYER REQUIREMENTS	<ul style="list-style-type: none"> Has a payroll account with CRA as of March 15, 2020 Files an application with CRA in respect of the <i>"qualifying period"</i> in prescribed form and manner, before October 2020 Individual who has principal responsibility for the financial activities of the employer attests that the application is complete and accurate in all material respects <i>"qualifying period"</i> refers to the following time periods: <ul style="list-style-type: none"> March 15, 2020 – April 11, 2020 April 12, 2020 – May 9, 2020 May 10, 2020 – June 6, 2020 Any other date prescribed by regulation – September 20, 2020 For the first <i>"qualifying period"</i>, demonstrate 15% drop in <i>"qualifying revenue"</i> when compared against March 2019 For the second and third <i>"qualifying periods"</i>, demonstrate 30% drop in <i>"qualifying revenue"</i> when compared against, respectively, April 2019 and May 2019 For the fourth <i>"qualifying period"</i>, demonstrate some prescribed (by Regulation) % drop in <i>"qualifying revenue"</i> when compared against some prescribed time period EXCEPTION: For any of the first three <i>"qualifying periods"</i>, an employer can use January and February 2020 as comparison months if (i) on March 1, 2019, they were not carrying on business or otherwise carrying on its ordinary activities, or (ii) the employer seeks the CEWS for all three of those <i>"qualifying periods"</i> CAVEAT: If an employer uses January/February 2020, then revenues for those months (combined) for baseline purposes is calculated as: 	<ul style="list-style-type: none"> Payroll account with CRA as of March 18, 2020 Ensure suitable books and records respecting: Total remuneration paid between March 18, 2020 and June 19, 2020; The federal, provincial, and territorial tax that was deducted from that remuneration; and The number of eligible employees paid in that period 	<ul style="list-style-type: none"> None Employers should determine whether they are paying their employees any amounts which could disentitle them to the CERB For example, payments pursuant to a supplemental unemployment benefit (SUB) plan could disentitle an employee to the CERB See our other post (linked here) for information on SUB plans Based on internal correspondence with CRA it appears that SUB plan payments can still proceed despite an employee receiving the CERB

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EMPLOYER REQUIREMENTS (CONTINUED)	<ul style="list-style-type: none"> (50% x January and February "qualifying revenues") x (number of days in January and February 2020 / number of days in January and February 2020 during which employer was carrying on business) EXCEPTION: If an employer satisfies the requirements for a given "qualifying period", then it will be deemed to also satisfy the requirements for the immediately following "qualifying period" EXAMPLE:: an employer with a revenue drop of more than 15% in March will qualify for the first and second "qualifying periods", covering remuneration paid between March 15 and May 9 EXAMPLE: an employer with a revenue drop of 30% in April will qualify for the second and third "qualifying periods", covering remuneration paid between May 10 to June 6 "qualifying revenue" means the inflow of cash, receivables or other consideration arising in the course of the employer's ordinary activities (generally from the sale of goods, rendering of services and the use by others of the employer's resources) in Canada, determined in accordance with the employer's normal accounting practices CAVEATS: <ol style="list-style-type: none"> Registered charity revenues include: amounts from a "related business" (explanatory CRA link here), gifts, and other amounts received in the course of ordinary charity activities Registered charities can elect to exclude funding from government sources when determining revenues for both current (2020) and historical (2019) numbers – once chosen, however, the same approach applies throughout all current and historical reference periods Non-profits can include membership fees and other amounts received in the course of its ordinary activities Non-profits can elect to exclude funding from government sources when determining revenues for both current (2020) and historical (2019) numbers – once chosen, however, the same approach applies throughout all current and historical reference periods Revenue excludes "extraordinary items" (term not defined) Revenue excludes amounts derived from persons/partnership not dealing "at arm's length" with the employer (explanatory CRA link here) Revenue excludes the CEWS itself as well as any deemed remittance amounts owing to other COVID-related legislation If the employer is part of a group of companies that normally prepares consolidated financial statements, then it can determine its revenues separately provided everyone in its' group does the same If the employer and each member of its "affiliated group" (e.g. commonly controlled group of companies) elects, then the revenue of the group can be determined on a consolidated basis and that revenue is to be used for each 		

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EMPLOYER REQUIREMENTS (CONTINUED)	<p>member of the group</p> <ol style="list-style-type: none"> If the employer is entirely owned by joint venture (JV) participants, and all or substantially all (generally interpreted to be 90%+) of the revenue is in respect of the joint venture, then the employer may use the revenues of the JV instead of its' own revenues If all or substantially all (generally interpreted to be 90%+) of the revenue is from "non-arm's length" (see link in Caveat 6 above) sources, then certain complex deemed revenue rules apply – these will require the employer to look at the current and historical revenues of those other "non-arm's length" persons The employer can follow either the cash or accrual method of calculating revenues (but not both) If employer engages in any transactions with "non-arm's length" entities to reduce its current (2020) revenues for a given "qualifying period" and it is reasonable to conclude those transactions occurred to gain access to the CEWS, then the employer will lose access to the CEWS for that "qualifying period". Additionally, if employer engages in this type of transaction, it will be liable to a penalty equal to 25% of the value of the CEWS amount claimed, in addition to the requirement to repay in full the CEWS that was improperly claimed <ul style="list-style-type: none"> Make best efforts to top-up the employees' remaining 25% of salary (including employer portion of CPP and EI and any other benefit costs, as well as tax remittance on this 25%). This is not strictly written in the legislation but appears to be some form of administrative requirement. Keep adequate books and records (i) calculating current and historical "qualifying revenue", (ii) employee "eligible remuneration" and "baseline remuneration" 		
EMPLOYEE REQUIREMENTS	<ul style="list-style-type: none"> Employed in Canada Cannot be without employer remuneration for 14 or more consecutive days in a "qualifying period" This rule replaces the previously announced restriction that an employer would not be eligible to claim the CEWS for remuneration paid to an employee in a week that falls within a 4-week period for which the employee is eligible for the CERB 	<ul style="list-style-type: none"> Employed in Canada 	<ul style="list-style-type: none"> Resident of Canada At least 15 years of age Stopping working because of COVID-19 or are eligible for EI regular or sickness benefits Reasons could include (but are not limited to): (i) let go from job or hours reduced to 0, (ii) in quarantine or sick due to COVID-19, (iii) away from work to take care of others because they are in quarantine or sick due to COVID-19, and/or (iv) away from work to take care of children or other dependents whose care facility closed due to

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EMPLOYEE REQUIREMENTS (CONTINUED)			<p>COVID-19</p> <ul style="list-style-type: none"> • Employees that quit voluntarily are not eligible • Income of at least \$5,000 in the 2019 tax year or in the 12 months prior to the date of application • This can come from employment, self-employment, maternity/parental benefits under the EI program, or non-eligible dividends • It is not clear if income means gross revenue before expenses, or net income after expenses • Who are (or expect to be) without employment or self-employment income for at least 14 consecutive days in the initial 4-week period (beginning on April 6). For subsequent benefit periods, they expect to have no employment income for the entire next 4-week period (and will need to attest to this fact). • Receipt of any benefits or employment income (which may include, for example, payments under an employer supplemental unemployment benefit plan) disentitle the employee from the CERB. There may also be concerns if an owner personally receives business interruption insurance proceeds. • Announced as of April 6, 2020 by Prime Minister Trudeau: potential expansion to (i) "gig economy" workers that may work less than 10 hours per week, (ii) professionals such as dentists which are operating on

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EMPLOYEE REQUIREMENTS (CONTINUED)			a limited, emergency basis, (iii) students that have lost summer employment due to COVID-19, and (iv) home care and other workers that would make less than the CERB amounts normally
TIME PERIOD	<ul style="list-style-type: none"> Remuneration paid between March 15, 2020 and at least June 6, 2020 (potentially extended to September 30, 2020) Claim Periods ("qualifying periods"): <ul style="list-style-type: none"> March 15, 2020 – April 11, 2020 April 12, 2020 – May 9, 2020 May 10, 2020 – June 6, 2020 Any other date prescribed by regulation – September 30, 2020 As noted earlier, if an employer qualifies for the first "qualifying period", then they automatically qualify for the second "qualifying period" (and the same with the second and third "qualifying periods") 	<ul style="list-style-type: none"> Remuneration paid between March 18, 2020 and June 19, 2020 (for many employers, this will mean reductions to their payroll withholdings due to CRA on April 15, 2020) 	<ul style="list-style-type: none"> Any 4-week period falling between March 15, 2020 and October 3, 2020. This essentially establishes 4-week rolling periods (starting on Sundays) and employees must qualify for the entire given 4-week period or will not qualify at all during that 4-week period. It appears the employee can choose the beginning of these 4-week periods
AMOUNT OF SUBSIDY/BENEFIT	<ul style="list-style-type: none"> Equal to: A – B – C + D (calculates an amount for each employee on a weekly basis for the "qualifying period" being analyzed) Variable "A": The greater of: <ul style="list-style-type: none"> The least of: <ul style="list-style-type: none"> 75% of the amount of "eligible remuneration" paid to the employee for that week; \$847; and If the employee does not deal "at arm's length" (see earlier discussion) with the employer at any time in the "qualifying period", \$0; and The least of: <ul style="list-style-type: none"> The amount of "eligible remuneration" paid to the employee for that week; 75% of the employee's "baseline remuneration" for that week; and \$847 "Eligible remuneration" consists of: salary, wages, fees, commission, and other amounts for services (except amounts paid to most non-residents) EXCLUSIONS: retiring allowances (i.e. severance pay), employee benefits arising from stock options or use of corporate vehicles, amounts that can reasonably be expected to be paid or returned to the employer (or a person not dealing at arm's length with the employer or a person at the direction of the employer) EXCLUSIONS: any amount where there is an arrangement between 	<ul style="list-style-type: none"> Per employee, equal to the lesser of: <ul style="list-style-type: none"> 10% of the remuneration paid to the employee; and \$1,375 Aggregate maximum of \$25,000 per employer (not determined on an "associated" corporation basis) 	<ul style="list-style-type: none"> \$2,000, paid in a single amount for a particular 4-week period. This creates a maximum potential CERB entitlement of \$8,000 unless further qualifying periods are prescribed

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AMOUNT OF SUBSIDY/BENEFIT (CONTINUED)	<p>an employee and an employer which entails (i) the employee receiving amounts in excess of their "baseline remuneration", (ii) after the "qualifying period" for the employer, the employee is reasonably expected to be paid a lower weekly amount than their "baseline remuneration", and (iii) one of the main purposes of the arrangement is to increase the amount of CEWS payable</p> <ul style="list-style-type: none"> "baseline remuneration" means the average weekly "eligible remuneration" paid to the employee by the employer between January 1, 2020 and March 15, 2020, excluding any period of 7+ days where the employee was not remunerated Variable "B": Total of all amounts deemed to be remitted by the employer by operation of the 10% Subsidy Variable "C": Total of all amounts received by the employee for each week in the "qualifying period" as a work-sharing benefit (see Employment and Social Development Canada link here) Variable "D": Total of all EI premiums or CPP contributions payable in respect of an employee who is on leave with pay for that week No overall maximum to amount of subsidy which an employer can claim Watch for employees employed by 2+ commonly-controlled employers – those employers effectively must share the CEWS when it comes to that employee 		
METHOD OF RECEIVING BENEFIT	<ul style="list-style-type: none"> CEWS operates by creating a "deemed overpayment" of employer remittances to CRA. Then, if there is such a "deemed overpayment", CRA can refund all or any part of it to the employer (potentially with interest paid as well) Mechanically, this should be a direct payment to employers from CRA (employers are encouraged to set up direct deposit) 	<ul style="list-style-type: none"> Reduction in source withholdings normally payable to CRA 	<ul style="list-style-type: none"> Direct deposit (if the employee has linked account with CRA) or by cheque
APPLICATION PROCESS	<ul style="list-style-type: none"> Apply through CRA My Business Account as well as a web-based application (application expected launch in the next 3-6 weeks) Employers must re-apply each month they have a 30% reduction compared to the same month in the prior year 	<ul style="list-style-type: none"> No application process. The employer simply reduces its remittance of income tax on payroll withholdings. The employer continues to calculate income tax, CPP, and EI deductions as normal but remits less to CRA Presumably details about the 10% Subsidy would need to be provided when completing 2020 T4s for employees 	<ul style="list-style-type: none"> Apply through web-based portal or over the phone. The Government has recommended the following specific days for applying based on the birth month of the applicant: <ul style="list-style-type: none"> Mondays - January, February or March Tuesdays - April, May or June Wednesdays - July, August or September Thursdays - October, November or December Friday - Sunday - Any month

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APPLICATION PROCESS (CONTINUED)			<ul style="list-style-type: none"> Can apply retroactively to March 15, 2020 Must apply and confirm eligibility for the CERB every 4 weeks (up to a maximum of 16 weeks) if situation continues
SPEED OF FUND AVAILABILITY	<ul style="list-style-type: none"> Unknown at this time and will be dependent upon when the application portal is operational. Early commentary indicates a 6-week waiting period (i.e. 3 weeks to get portal operational and another 3 weeks to get the CEWS) 	<ul style="list-style-type: none"> Once the subsidy is calculated, the employer can immediately reduce the tax remittance to be sent to the CRA by the amount of the subsidy 	<ul style="list-style-type: none"> Once an employee applies, they can expect to get their payment in 3 business days if they have signed up for direct deposit with CRA, and approximately 10 business days if they haven't
INTERACTION WITH OTHER PROGRAMS	<ul style="list-style-type: none"> 10% Subsidy - Employers can claim both the CEWS and the 10% Subsidy. However, the CEWS is reduced (in any "qualifying period") by the amount of the 10% Subsidy claimed in that same "qualifying period" CERB - Employees can potentially be in receipt of CERB and this will not harm the employer's access to CEWS. An employee is only disentitled to CEWS if they have been without remuneration for 14+ consecutive days in a given "qualifying period" Work Sharing Program - For employers and employees that are participating in a Work-Sharing program, EI benefits received by employees through the Work-Sharing program reduce the benefit that their employer is entitled to receive under the CEWS 	<ul style="list-style-type: none"> See notes to CEWS 	<ul style="list-style-type: none"> If the employee is already in receipt of EI benefits, they should not re-apply for the CERB (can't receive EI benefits and CERB for the same period of time) If the employee was eligible for EI benefits that started before March 15, 2020 but the benefits end before October 3, 2020, then the employee can apply for the CERB EI applications for individuals ceasing work on or after March 15, 2020 will be directed through the CERB program. This means that applicants who would have received EI benefits below the \$2,000-per-month threshold will now be bumped up to this amount. Those who would normally qualify for more than \$500 per week in EI (the maximum benefit is \$573 per week) will instead receive the CERB payment of \$2,000. If the individual is still unemployed after receiving the maximum

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INTERACTION WITH OTHER PROGRAMS (CONTINUED)			<p>benefit from the CERB program then they would be eligible to apply for EI. This is occurring even if the benefit under EI would be higher than the benefit under CERB</p> <ul style="list-style-type: none"> For employees eligible for employer supplemental unemployment benefit plans, we presume that the Record of Employment indicating the SUB plan would allow the employee's application to still be processed through EI (and not the CERB). This would preserve recourse to the SUB plan without harming eligibility for the CERB. Internal discussions with CRA suggest this is the case (though the legislation is not clear on this)
TAX TREATMENT	<ul style="list-style-type: none"> CEWS is taxable to the employer as "assistance received...from a government" (as recipient) but the employer will be entitled to a tax deduction for amounts paid to their employees. CEWS reduces the amount of remuneration expenses eligible for other federal tax credits 	<ul style="list-style-type: none"> 10% Subsidy is taxable to the employer 	<ul style="list-style-type: none"> CERB is taxable to the employee
GOVERNMENT WEBSITE LINK	<ul style="list-style-type: none"> http://www.canada.ca/en/department-finance/economic-response-plan/wage-subsidy.html (See here for a link to the operative legislation which puts the CEWS into effect) 	<ul style="list-style-type: none"> https://www.canada.ca/en/revenue-agency/campaigns/covid-19-update/frequently-asked-questions-wage-subsidy-small-businesses.html (See here for a link to the operative legislation which puts the 10% Subsidy into effect) 	<ul style="list-style-type: none"> https://www.canada.ca/en/services/benefits/ei/cerb-application.html https://www.canada.ca/en/revenue-agency/services/benefits/apply-for-cerb-with-cra.html#after (See here for a link to the operative legislation which puts the CERB into effect)