



## Canadian tax alert

### COVID-19 – The new Canada Emergency Response Benefit

April 15, 2020

On April 1, 2020, the federal government provided a number of clarifications on the recently announced Canada Emergency Response Benefit (CERB). As part of our commitment to keeping our clients informed of all developments, we provide below an overview of the CERB with specific mention of newly announced clarifications today, in a question and answer format for convenience.

Our Tax and Legal team is closely monitoring all government announcements and will remain available to support you during this unprecedented and uncertain time.

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## Questions and answers

### 1. What is the CERB?

The CERB is a benefit that replaces and combines both the Emergency Care Benefit and Emergency Support Benefit that were announced on March 18, 2020. It is intended as a streamlined benefit to support workers and ease pressure on the government Employment Insurance (EI) program, which was not intended to address exceptional circumstances like the ones we are currently experiencing.

### 2. Who is eligible to receive CERB benefits?

The CERB will streamline the previously announced benefits and will be available to individuals who are tax residents of Canada and who are:

- Employed workers who ceased working because of COVID-19
- Self-employed workers who ceased working because of COVID-19
- Workers who are still employed, but not earning income due to COVID-19
- Individuals who fall into one of the following categories (for COVID-19-related reasons):
  - o They are sick
  - o They are quarantined
  - o They are taking care of someone who is sick due to COVID-19
  - o They are working parents who must stay at home to care for children affected by COVID-19 (e.g., sick, home because of school/daycare closures)

Eligible individuals must be residing in Canada, be at least fifteen years of age, and have had an income of at least \$5,000 in 2019 or in the 12-month period preceding the day on which they submit their application. The income should come from any of the following sources:

- Employment
- Self-employment
- Maternity or parental EI benefits
- Allowances or benefits paid under a provincial plan for pregnancy, new-born care or adoption purposes

Finally, to be eligible for the CERB, applicants must have ceased working for reasons related to COVID-19 for at least 14 consecutive days during the four-week period for which they apply. Individuals must also not receive any income in respect of these 14 consecutive days, meaning any earnings from:

- Employment
- Self-employment
- EI benefits
- Allowances or benefits paid under a provincial plan for pregnancy, care of a new-born or adoption purposes

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- Any other income that is prescribed by regulation (as of April 15, 2020, there are no regulations enacted yet)

On April 15, 2020, the federal government announced easing measures which increase CERB eligibility, by:

- Allowing claimants to earn up to \$1,000 per month while collecting the CERB
- Extending the CERB to seasonal workers who are unable to undertake their usual work as a result of COVID-19
- Extending the CERB to workers who exhausted their EI regular benefits

While few details were released with the announced changes, we expect more to come in short order. We will keep readers informed of any developments in this regard.

**3. Do employees need to lose their job to be eligible for CERB benefits?**

No. As explained above, eligibility for the CERB is based on employees not working and not receiving income during the first 14 days of the period for which they are applying. Loss of employment is not a requirement.

However, employees who quit their employment voluntarily are not eligible for CERB benefits.

**4. For which period(s) are individuals entitled to apply for CERB benefits?**

CERB payments will be available from March 15, 2020 to October 3, 2020. Since eligibility periods are fixed four-week periods, applicants can reapply for multiple four-week periods (for a total of up to 16 weeks) as long as they meet eligibility criteria on each application.

On each application, applicants must select the four-week period for which they are applying (up to four such periods):

<b>Four-week period</b>	<b>Period dates</b>
1	March 15, 2020 to April 11, 2020
2	April 12, 2020 to May 9, 2020
3	May 10, 2020 to June 6, 2020
4	June 7, 2020 to July 4, 2020
5	July 5, 2020 to August 1, 2020
6	August 2, 2020 to August 29, 2020
7	August 30, 2020 to September 26, 2020

**5. How is the CERB benefit calculated?**

The CERB provides a taxable benefit of a fixed amount of \$2,000 per four-week period, up to a maximum of \$8,000 (i.e., for a maximum of 16 weeks).

Applicants must report any CERB payments received on their 2020 income tax returns; income tax will not be deducted at source.

**6. When should applicants expect to receive their CERB benefit payment?**

Applicants who signed up for direct deposit should expect receipt of the payment within three business days of their application. Applicants who did not sign up for direct deposit should expect to receive payment within 10 business days of their application.

**7. Will an employee currently receiving EI benefits be eligible to apply for the CERB benefits?**

An employee receiving EI benefits for the period between March 15, 2020 and October 3, 2020, is not eligible to apply for CERB benefits. An employee who received EI benefits related to a period prior to March 15, 2020, may apply for CERB benefits.

If an employee applied to receive EI benefits but the application has not been processed yet, the employee would not need to apply to the CERB. While there was initially some ambiguity on the matter, the federal government confirmed on April 1, 2020 that pending EI applications will be converted into CERB applications.

However, it appears that pending or new EI applications for individuals who became eligible to EI prior to March 15, 2020, would still be processed under the pre-existing EI rules.

**8. Can employees still work, on reduced hours or otherwise, and remain eligible for the CERB?**

Until April 15, 2020, the answer was “no”. However, the April 15, 2020 announcement suggests that reduced hours (and reduced income) may be compatible with continued eligibility to the CERB.

The Canada Emergency Response Benefit Act provides that to be eligible for the CERB, an employee must not have any income, for at least 14 consecutive days within the four-week period in which the employee applies for the CERB payment.

Subsequently, on April 1, 2020, the federal government confirmed that an applicant who works and earns income after the initial 14-day period would cease being eligible for additional CERB payments (for the following months) if the applicant expects to work during that period of receipt of CERB payments. Applicants must not receive any income for 14 days in

their first period of application, and must “not expect” to receive any income during the subsequent periods for which they are applying.

On April 15, 2020, the federal government announced that it would ease CERB requirements and allow claimants to earn up to \$1,000 per month while collecting the CERB. We are expecting further details on this announcement and will keep you apprised on any developments.

**9. Will payments made during a period of receipt of the CERB, but earned beforehand have an impact on CERB eligibility?**

The CERB program does not yet appear to have rules for the allocation of earnings, unlike EI. Under the Employment Insurance Regulations, it is possible that earnings received during a certain period would be allocated to an earlier period during which the services giving rise to these earnings were rendered. The CERB program contains no such provisions.

However, the Canada Emergency Response Benefit Act does provide that to be eligible to the CERB, employees must not work for 14 days in the four-week period of application, and must not earn income “in respect of” that 14-day period. Subject to further clarifications or regulations, this may provide grounds to argue that payments received in a given period are not necessarily payments received “in respect of that period”.

**10. Can recipients be subject to repayment of CERB benefits?**

The Canada Emergency Response Benefit Act provides the Minister of Revenue with authority to demand repayment of all amounts paid in excess or to which applicants were not entitled.

It is possible for a claimant to voluntarily return or repay a CERB payment in the event that the claimant returns to work earlier than expected or realizes that he or she was not eligible for the CERB after applying. If the claimant still has the original CERB cheque, it can be returned by mail at the provided address. If a claimant wishes to reimburse a CERB payment that was received by direct deposit, a cheque can be mailed to the Canada Revenue Agency in the prescribed manner.

**11. When can employees apply for CERB benefits?**

Applications have been possible as of April 6, 2020. To manage the expected onslaught of applications there are currently four distinct application days (April 13, 14, 15 and 16, 2020). Each person would apply on the day that was allocated to them. As of the current eligibility period, the four application days are still assigned according to months of birth. This is only an administrative measure to ease pressure on the online portal, and would not have ramifications on the rights and obligations of applicants.

Applicants will be able to submit an application by accessing either their *My Service Canada Account* or their *CRA My Account* portal, or by calling an automated telephone featuring an application process.

No application should be submitted after December 2, 2020.

**12. If employees apply for CERB benefits, will they still be eligible to receive EI benefits?**

Following the full receipt of CERB benefits (i.e., four periods), applicants will be eligible to receive EI benefits, provided they meet EI eligibility criteria. Service Canada confirmed that the period of CERB benefits would not impact EI entitlement.

**13. May employers claim the Canada Emergency Wage Subsidy (CEWS) on wages paid to CERB claimants?**

The CEWS provides that eligible employees are all those employed by the eligible employer, other than those who have gone without pay for 14 or more consecutive days during a selected claiming period.

Thus, remuneration paid to employees who received the CERB would not qualify for the CEWS. However, where employers re-hire previously laid off employees, and retroactively pay them, such remuneration paid can qualify for the CEWS. This would result in the requirement to repay any CERB payments received by employees.

Employers should carefully review their employee calculations on a case-by-case basis to determine what may be the best outcome for their employees.

***For more information on COVID-19, see our [Canadian COVID-19 information hub](#) and our [global COVID-19 information hub](#)***

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