

# Coronavirus: Government Programs for Employer/Employee

April 21, 2020

**BOMA**  
Canada



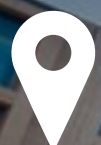




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# Welcome from BOMA Canada



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[bomacanada.ca/coronavirus](http://bomacanada.ca/coronavirus)







# Government Programs: Top Five Issues for Employers

Questions that are top of mind amid the COVID-19 Pandemic



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# Layoffs and Government Programs

1. To Layoff or Not to Layoff?
2. Provincial Leaves
3. Recall from Layoff
4. Interplay between EI, CERB and CEWS
5. What's Next?





# 1. To Layoff or Not to Layoff?

**What are the potential consequences of temporarily laying off my employees?**

- Constructive Dismissal



# 1. To Layoff or Not to Layoff?

## What are alternatives to laying off my employees?

- Use of accumulated sick days, personal days or vacation days
- The Work-Sharing Program
- SUB Plans
- The CEWS
- The CERB
- Additional Leaves





## 2. Provincial Leaves

### British Columbia

- COVID-19 leave under the Employment Standards Act

### Alberta

- Unpaid Leave of Absence for workers who are sick or quarantined due to COVID-19
- Unpaid Leave of Absence for workers caring for children or family members due to COVID-19

### Saskatchewan

- Unpaid Leave of Absence for Public Health Emergency





## 2. Provincial Leaves

### Manitoba

- Proposing new provisions to the Employment Standards Code that would allow employees to be away from work for specified reasons related to COVID-19
- Paid administrative leave for health-care staff

### Ontario

- Infectious Disease Emergency Leave

### Newfoundland and Labrador

- Communicable Disease Emergency Leave





### 3. Recall from Layoff

**What happens if I recall my employees on a partial basis?**

- Impact to CERB
- Impact to EI
- Again, watch out for Constructive dismissal





### 3. Recall from Layoff

#### What if I recall an employee and then temporarily lay them off again?

- Recalled employees must inform Service Canada of their recall
- If laid off again, new temporary layoff period begins
- Block 10 of ROE for second temporary layoff should be date of return to work



## 4. Interplay Between EI, CERB, and CEWS

**What if my employees are on EI and I rehire them with assistance of the CEWS?**

- Mutually exclusive
- EI claim should be cancelled if employee is rehired with aid of CEWS





## 4. Interplay Between EI, CERB, and CEWS

**What if my employees are receiving CERB and I would like to rehire them with help from CEWS?**

- Mutually exclusive benefits



## 4. Interplay Between EI, CERB, and CEWS

### How do employees repay the CERB if they were not eligible?

- It depends how they received the payment
- Process for payments received by cheque
- Process for payments received by direct deposit





## 4. Interplay Between EI, CERB, and CEWS

### How does CERB affect EI eligibility?

- Will not affect the benefit period
- Must reapply for EI after CERB period ends



## 5. What's Next?

Reopening the  
Economy – What  
does that look like?

Safety Measures  
and Testing

New Agreements  
and Old  
Agreements



# COVID 19 Government Support Programs



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Unprecedented Challenges



Unknown Time Line



Unprecedented Response





CEWS (75%)

TWS (10%)

Work-Sharing

CEBA (Recently  
Expanded)

BCAP  
(BDC/EDC  
Program)

CERB

CECRA (Rental  
Assistance)



# Cash Preservation Measures Through Tax System

- Deferral of corporate and personal tax and instalment payments until Sept 1, 2020
- GST/HST Remittances deferred until June 30, 2020
- Request refunds of corporate instalments already made prior to March 18
- Property tax deferral





## Canada Emergency Wage Subsidy (cews) What is the CEWS?

- 75% wage subsidy for eligible entities retroactive to March 15, 2020
- Applies at a rate of 75 percent on the first \$58,700 normally earned by employees – representing a maximum benefit of \$847 per week
- In effect for 12-week period – March 15 to June 6, 2020



# Who is Eligible for the CEWS?

## **Eligible entity:**

- Includes individuals, taxable corporations, trusts, partnerships consisting of eligible employers, non-profit organizations and registered charities
- Excludes public bodies – crown corporations, universities, etc.

## **Eligible employee:**

- An individual employed in Canada by an eligible entity who has not been without remuneration for 14 or more consecutive days in the qualifying period





## CEWS – Qualifying Revenue

- Revenue from business carried on in Canada and earned from arm's length sources
- Calculated using employer's normal accounting method, excluding revenues from extraordinary items, amounts on account of capital and wage subsidy amounts received
- Employers can select accrual method or cash method for calculating revenue; that selection must be used for entire duration of program
- There are special rules for entities with 90 percent or more of their revenues from non-arm's length parties



## CEWS – Eligible Remuneration

### **Includes:**

- Salary, wages or commissions
- Must be paid in respect of the week in the qualifying period
  - Paying a previously booked bonus is not eligible as expense was claimed in prior period (not in respect of qualifying period)
- Paid between March 15, 2020 and June 6, 2020

### **Does not include:**

- Dividends
- Severance pay
- Stock option benefits





## CEWS – Eligible Remuneration

### Also excluded:

- Any amount received that can reasonably be expected to be paid or returned to employer or non-arm's length person (cannot loan funds back)
- Any amount paid if:
  - Amount exceeds baseline remuneration
  - After qualifying period, remuneration expected to fall below baseline remuneration
  - Paid to increase CEWS
- Cannot temporarily bump remuneration to maximize CEWS



# CEWS – Eligible Remuneration

## Baseline Remuneration

- Average weekly eligible remuneration paid during the period of January 1, 2020 to March 15, 2020
  - Total remuneration for period / 10 weeks
  - May exclude any periods of time of at least 7 days when employee was not and will not be remunerated
- Must be paid by eligible entity to eligible employee
- For non-arm's length employees, subsidy can never exceed 75% of baseline remuneration
  - If no wages paid prior to March 15, 2020, baseline remuneration = zero





# CEWS - Overview of Program

Qualifying Periods	Period 1 March 15 to April 11	Period 2 April 12 to May 9	Period 3 May 10 to June 6
Wages During Period	Earned between March 15 through April 11	Earned between April 12 through May 9	Earned between May 10 through June 6
Revenue Period	March 2020 revenues	April 2020 revenues	May 2020 revenues
Prior reference period (default); or	March 2019 revenues	April 2019 revenues	May 2019 revenues
Prior reference period (alternative) Note 1	May elect to use average of January and February 2020 revenues as the prior reference period for all qualifying periods		
Required decrease in revenues	<b>15%</b> or greater	<b>30%</b> or greater (deemed met if 15% or greater reduction in period 1)	<b>30%</b> or greater (deemed met if 30% or greater reduction in period 2)

NOTE 1 - Any entities that did not carry on business on March 1, 2019 must use January and February 2020 average revenues as the reference period.



# Subsidy Claim Amount per Employee

	Arm's Length	Non-Arm's Length	Arm's Length	Non-Arm's Length
<b>ASSUMPTIONS:</b>				
Weekly baseline remuneration	2,000.00	2,000.00	700.00	700.00
Weekly current remuneration	800.00	800.00	1,200.00	1,200.00
<b>GREATER OF:</b>				
<b>Least of</b>				
- 75% of remuneration paid	600	600	900	900
- Max benefit	847	847	847	847
- NIL if Non-Arm's Length Employee	N/A	-	N/A	-
<b>Least of</b>				
- Eligible remuneration paid	800	800	1,200	1,200
- 75% of baseline remuneration	1,500	1,500	525	525
- Max benefit	847	847	847	847
Maximum Subsidy to Employer	800	800	847	525
Subsidy as a Percentage of Remuneration	100%	100%	71%	44%





## CEWS – How to Apply / Maintaining Records

- Eligible entities would be able to apply for the CEWS through the Canada Revenue Agency's My Business Account portal, as well as a web-based application
- Employers are required to maintain records demonstrating their reduction in revenues and remuneration paid to employees – must attest to decline in revenue



## CEWS – Compliance

- Employers not meeting eligibility requirements will be required to repay amounts received under the CEWS – 100%
- Anti-abuse rules will be ensure that the subsidy is not inappropriately obtained
- Penalties may include fines, imprisonment
- Minister may make information relating to CEWS application public







## Refund of Certain Payroll Contributions

- The Government is proposing a new 100 percent refund for certain employer paid contributions to EI, CPP and QPP and the Quebec Parental Insurance Plan
- This refund is available on employer-paid contributions for eligible employees for each week throughout which those employees on leave with pay, and for those employees that the employer is eligible to claim the CEWS





# Interaction of CEWS With Other Programs

## **How does the CEWS interact with the 10 percent wage subsidy?**

- For employers eligible for both the CEWS and the 10 percent wage subsidy for a period, any benefit from the 10 percent wage subsidy for remuneration paid in a specific period would generally reduce the amount available to be claimed under the CEWS in that same period

## **How does the CEWS interact with the Canada Emergency Response Benefit (CERB)?**

- Eligibility for the CEWS of an employee's remuneration is available to employees other than those who have been without remuneration for 14 or more consecutive days in the eligibility period





# Temporary Wage Subsidy for Employers (twS)

- Employers that do not qualify for the CEWS may continue to qualify for previously announced temporary wage subsidy of 10 percent

## Calculation of Subsidy

- Equal to 10 percent of remuneration paid between March 18, 2020 and June 19, 2020
- Maximum subsidy amount is \$1,375 per employee to a maximum of \$25,000 for employer
- Each corporation in an associated group could be permitted these amounts provided that the taxable capital of the associated group is below \$15 million
- No reduction to the remittance of CPP and EI premiums
- CRA has confirmed that subsidy is taxable to corporation

## Example

- 5 employees earning monthly salaries of \$4,100 for total monthly payroll of \$20,500
- Subsidy is \$2,050 ( $\$20,500 \times 10\%$ ) per month
- Over designated three-month period, total subsidy received would be \$6,150



# Canada Emergency Response Benefit (CERB)

- Temporary income support to workers who have stopped working and are without employment or self-employment income for reasons related to COVID-19
  - To be eligible, workers must have earned at least \$5,000 from employment /self employment in 2019 or in the 12 month period ending at time of application
  - Workers can earn up to \$1,000 per month and remain eligible for CERB
- The benefit is temporary in nature and is paid in blocks of four weeks for a total of \$2,000 per month or equivalent to \$500 per week; maximum 16 weeks of benefits can be paid
- The benefit is available from March 15, 2020 to October 3, 2020
- The applicant must apply before December 2, 2020; online application process requires minimal paperwork





## Canada Emergency Response Benefit (CERB)

- Employee or self-employed individual ceased working due to COVID-19 for at least 14 consecutive days within a 4-week period in which they apply for payment
- Individual does not receive >\$1,000 income from employment or self-employment, EI benefits or allowances under a provincial maternity or parental plan, or any other income as prescribed by regulation



## Canada Emergency Response Benefit (CERB)

- CERB extended to seasonal workers who have exhausted regular benefits and are unable to undertake usual seasonal work as a result of COVID-19
- CERB also extended to workers who recently exhausted EI regular benefits and are unable to find a job or return to work because of COVID-19





## CERB - (FAQs)

### **Is the CERB amount taxable?**

- Amount is taxable to the individual and CRA indicated tax will not be deducted at source

### **Can I have other income while receiving the CERB?**

- Individual must have stopped working as a result of COVID-19 and be without employment income for at least 14 consecutive days within initial four-week period; for subsequent periods, individual must expect to have no employment income, self-employment income or EI benefits

### **When will payment be received?**

- Benefits will start within a few days of individual submitting the application; payments will be retroactive to individual's eligibility date

### **I am currently on EI, do I qualify for this program?**

- If individual eligible for EI benefits that started before March 15, 2020 and benefits end before October 3, 2020, individual may apply for the CERB if eligibility requirements met



## Other Programs - Canada Emergency Business Account (CEBA)

- Interest free loans of up to \$40,000 to small businesses and not for profit entities
- Required to have payroll in 2019 of at least \$20,000 and not more than \$1,500,000
- Loan repayable on or before December 31, 2022 – eligible for 25% forgiveness (maximum \$10,000)
- Loan subject to 5% interest rate after December 31, 2022
- Funds must be used for operating expenditures, not eligible for management remuneration, dividends, prepayment of existing debts



**Apply for CEBA at financial institution of business**





## Other Programs - Canada Emergency Commercial Rent Assistance (CECRA)

- Creation of rental assistance program for small business that will provide loans, or forgivable loans, to commercial property owners who forgo rent for small business tenants
- Period covered – April (retroactive), May and June 2020





## Other Programs - Alternatives for Retaining Employees

### **Work share agreements**

- Allows eligible employees to receive EI on a reduced work schedule
- Extension of program from 38 weeks to 76 weeks
- Businesses can enter the program after 1st year of operations

### **Supplementary Unemployment Benefit Plan**

- Allows employer to top-up employee without clawing back EI benefits





## Tax Planning During an Economic Slowdown

- Payment of tax-free capital dividends – Capital Dividend Account
- Triggering capital losses on investments (selling investments)
- Transfer of property from corporation to individual shareholder
- Asset protection planning
- Estate freeze
- Thaw / refreeze transaction



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