

The Canada Emergency Wage Subsidy

[Bill C-14](#) was debated and passed into law on April 11, 2020. The Bill enacts *COVID-19 Emergency Response Act, No. 2* and amends the *Income Tax Act* to introduce a 75% wage subsidy for the period from March 15, 2020 until, at the latest, September 30, 2020. Initially, the legislation identified three “qualifying periods” during which employers can apply for the subsidy: March 15, 2020 to April 11, 2020, April 12, 2020 to May 9, 2020, May 10, 2020 to June 6, 2020. On May 15, 2020, the government announced that the subsidy would continue until August 29, 2020. At the same time, the government [announced](#) that it is reviewing eligibility criteria and considering further amendments to the legislation to address seasonal workers, eligibility of amalgamated corporations, eligibility of employers who are tax exempt trusts.

In this article we summarize which employers are eligible, which employers qualify, which employees’ wages can be subsidized, how to calculate the subsidy, and other details. The subsidy is based on remuneration paid to employees. Employers must pay employees first to be eligible for the subsidy.





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- Eligible Employers

The Bill defines “eligible entity” as:

- (a) a corporation, other than a corporation that is exempt from tax or is a public institution;
- (b) an individual;
- (c) a registered charity, other than a public institution;
- (d) a person that is exempt from tax under this Part because of paragraph 149(1)(e), (j), (k) or (l), other than a public institution;
- (e) a partnership, all of the members of which are described in this paragraph or any of paragraphs (a) to (d); or
- (f) a prescribed organization.

The references in subparagraph (d) to sub section 149(1) of the Act correspond to:

- (e) an agricultural organization, a board of trade or a chamber of commerce,
- (j) a corporation that was constituted exclusively for the purpose of carrying on or promoting scientific research and experimental development.
- (k) a labour organization or society or a benevolent or fraternal benefit society or order
- (l) a club, society or association that is not a charity that was organized and operated exclusively for social welfare, civic improvement, pleasure or recreation or for any other purpose except profit.
(collectively “*Other Not-For-Profit Organizations*”)

On May 15, 2020, the government expanded eligibility for the wage subsidy to include:

- Partnerships that are up to 50% owned by non-eligible members;
- Indigenous government-owned corporations that are carrying on a business, as well as partnerships where the partners are Indigenous governments and eligible employers;
- Registered Canadian Amateur Athletic Associations;
- Registered Journalism Organizations; and
- Non-public colleges and schools, including institutions that offer specialized services, such as arts schools, driving schools, language schools or flight schools.

This change is retroactive to April 11, 2020.

The government also announced on May 15, 2020 that it is proposing amendments regarding the eligibility of trusts. In the [backgrounder](#) for the propose amendments, the government is proposing to amend the CEWS to better align the tax treatment



of trusts and corporations for CEWS purposes. Trusts with employees will continue to be eligible for CEWS, subject to the following added exceptions:

- In cases where the trust is a tax-exempt entity (other than a public institution), it would qualify only if it is a registered charity or one of the other types of eligible tax-exempt entities.
- In cases where the trust is a public institution, it would qualify only if it is a prescribed organization.

This change is proposed to apply in respect of the third qualifying period (May 10 to June 6) and any subsequent qualifying period.

- **Ineligible Employers**

Public institutions are defined generally as:

- (a) diplomatic services of another country
- (b) municipalities, municipal or public bodies performing a function of government in Canada and subsidiaries
- (c) Crown corporations, commissions and associations and subsidiaries
- (d) schools
- (e) school boards
- (f) hospitals
- (g) health authorities
- (h) public universities
- (i) colleges

- **Qualifying Entities**

To qualify, an eligible entity must:

- (a) submit an application before October 2020
- (b) the individual who has principal responsibility for the financial activities must attest that the application is complete and accurate in all material respects
- (c) the *qualifying revenues* for the *current reference period* are equal to or less than the specified percentage for the *qualifying period* (see more details below but in summary a reduction in revenues of 15% in March and 30% for subsequent months)
- (d) have a business number to make payroll remittances on or before March 15, 2020

- **Qualifying Revenues, Current Reference Periods and Qualifying Periods**

Employers may compare their revenue using an average of their revenue earned in January and February 2020, or a year-over-year approach for the 2019 corresponding period. Whichever option is chosen when first applying for the CEWS will be used for



the entire duration of the program. The example given in the government [backgrounder](#) is as follows:

- ABC Inc. is a start-up that started its operations last September. It reported revenues of \$100,000 in January and \$140,000 in February, for a monthly average of \$120,000. In March, its revenues dropped to \$90,000. Because revenues in March are 25 per cent lower than \$120,000, ABC Inc. would be eligible for the CEWS for the first claiming period. To be eligible for the following claiming period, ABC Inc. revenues would have to be \$84,000 or less for the month of April (that is, 30 per cent lower than \$120,000).

The amount of wage subsidy received by the employer in a given month can be excluded for the purpose of measuring year-over-year changes in monthly revenues.

The government published a [webpage](#) for employers to find further information regarding eligibility and how to calculate their revenue.

On May 15, 2020, the government announced that it is consulting with key business and labour representatives over the next month on potential adjustments to the program to incent jobs and growth, including the 30 per cent revenue decline threshold. At this time, the government has not announced any changes, or qualification criteria for the additional 12 week period of the subsidy from June 7, 2020 to August 29, 2020.

The table below outlines each claiming period prior to June 6, 2020, the required reduction in revenue and the reference period for eligibility.

	Claiming Period	Required reduction in revenue	Reference Period for Eligibility
Period 1	March 15 to April 11	15%	March 2020 over: <ul style="list-style-type: none">• March 2019 or• Average of January and February 2020
Period 2	April 12 to May 9	30%	April 2020 over:

			<ul style="list-style-type: none"> • April 2019 or • Average of January and February 2020
Period 3	May 10 to June 6	30%	May 2020 over: <ul style="list-style-type: none"> • May 2019 or • Average of January and February 2020

• Calculating Revenues

The government explains how to calculate the eligible revenue reduction on its [website](#).

Employers can calculate their revenues under the accrual method or the cash method, but not a combination of both. Employers must select an accounting method when first applying for the CEWS and will then be required to use that method for the entire duration of the program.

Revenue means the inflow of cash, receivables or other consideration arising in the course of the ordinary activities— generally from the sale of goods, the rendering of services and the use by others of resources of the eligible entity — in Canada.

For registered charities, it also includes revenue from related businesses, gifts and other amounts received in the course of its ordinary activities and can exclude funding from government sources. The same method of calculation must be used for entire duration of the program.

For *Other Not-For-Profit Organizations*, revenue includes membership fees. Such organizations can elect to exclude funding received from government sources in the determination of its qualifying revenue for all of its prior reference periods and current reference periods.

Revenue also excludes “extraordinary items” (not defined), amounts derived from persons or partnerships not dealing at arm’s length with the eligible entity and any amounts paid out to the entity under the subsidy.

• Related Entities Computation of Revenue

Where an entity has more than one payroll account with Canada Revenue Agency, there are options for calculating revenue.



- if a group of eligible entities normally prepares consolidated financial statements, each member of the group may determine its qualifying revenue separately, provided every member of the group determines its qualifying revenue on that basis;
- if an eligible entity and each member of an affiliated group of eligible entities of which the eligible entity is a member jointly elect, the qualifying revenue of the group determined on a consolidated basis in accordance with relevant accounting principles is to be used for each member of the group.

Note that if non-arm's length entities report separately, but have employees in common, the total amount of the subsidy in respect of the employee shall not exceed the amount that would arise if the employee's weekly remuneration was paid by only one of the entities.

- **Amalgamations**

On May 15, 2020, the government announced that it is proposing amendments to the legislation to address amalgamated corporations. The amendments would apply on amalgamation of two or more predecessor corporations (or where a corporation is wound up into another). The amalgamated corporation would be permitted to calculate benchmark revenue for the CEWS revenue-decline test using their combined revenues, unless it is reasonable to consider that one of the main purposes for the amalgamation (or wind up) was to qualify for the CEWS.

- **Joint Ventures**

Joint ventures also have options regarding the computation of revenue:

- if all of the interests in an eligible entity are owned by participants in a joint venture and all or substantially all of the qualifying revenue of the eligible entity for a qualifying period is in respect of the joint venture, then the eligible entity may use the qualifying revenues of the joint venture (determined as if the joint venture were an eligible entity) as its qualifying revenues.

- **Non-Arm's Length Partnerships and Persons**

There is an option to exclude revenue from non-arm's length sources for certain persons or partnerships. Such persons or partnerships can elect to apply a four-part formulaⁱ to calculate their qualifying revenue.

- **Amount of Subsidy**

Employers can use the government's [on-line calculator](#) to determine their subsidy amount.



The subsidy amount for a given employee on eligible remuneration paid for the period between March 15 and June 6, 2020 is calculated based on the following:

The greater of A or B where:

A is the least of:

- i. 75% of eligible remuneration paid to the eligible employee in respect of that week,
- ii. \$847, and
- iii. if the eligible employee does not deal at arm's length with the qualifying entity in the qualifying period, nil, and

B is the least of

- i. the amount of eligible remuneration paid to the eligible employee in respect of that week,
- ii. 75% of baseline remuneration in respect of the eligible employee determined for that week, and
- iii. \$847.

The baseline remuneration for a given employee is calculated as an average of the weekly remuneration paid between January 1 and March 15 inclusively, excluding any seven-day periods in respect of which the employee did not receive remuneration.

On May 15, 2020, the government announced proposed amendments to the legislation regarding the calculation of baseline. To better account for seasonal workers and employees returning from extended leaves, employers would be permitted to choose one of two periods when calculating the baseline remuneration of their employees. Specifically, employers would be allowed to calculate baseline remuneration for an employee as the average weekly remuneration paid to the employee from January 1 to March 15 of 2020, or from March 1 to May 31 of 2019, excluding any period of 7 or more consecutive days without remuneration. Employers would be able to choose which period to use on an employee-by-employee basis.

Employers will also be eligible for a subsidy of up to 75 per cent of salaries and wages paid to new employees.

Eligible remuneration may include salary, wages, and other remuneration like taxable benefits. These are amounts for which employers would generally be required to withhold or deduct amounts to remit to the Receiver General on account of the employee's income tax obligation. However, it does not include severance pay, or items such as stock option benefits or the personal use of a corporate vehicle.

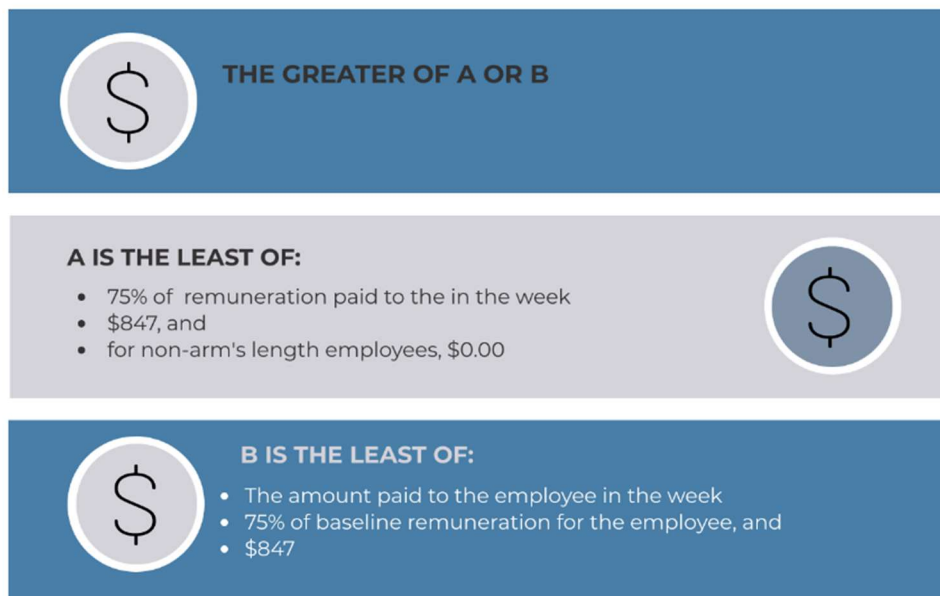


The subsidy would only be available in respect of non-arm's length employees employed prior to March 15, 2020.

There would be no overall limit on the subsidy amount that an eligible employer may claim.

Employers are expected to make their best effort to top-up employees' salaries to bring them to pre-crisis levels.

CALCULATE THE WAGE SUBSIDY



- Refund for Certain Payroll Contributions

Employees are eligible for 100 per cent refund for certain employer-paid contributions to Employment Insurance, the Canada Pension Plan, the Quebec Pension Plan, and the Quebec Parental Insurance Plan. This refund would cover 100 per cent of employer-paid contributions for eligible employees for each week throughout which those employees *are on leave with pay and for which the employer is eligible to claim for the CEWS for those employees*.

In general, an employee will be considered to be on leave with pay throughout a week if that employee is remunerated by the employer for that week but does not



perform any work for the employer in that week. This refund would not be available for eligible employees that are on leave with pay for only a portion of a week.

There is no overall limit on the refund amount that an eligible employer may claim.

For greater certainty, employers would be required to continue to collect and remit employer and employee contributions to each program as usual. Eligible employers would apply for a refund, as described above, at the same time that they apply for the CEWS.

- [Eligible employees](#)

An eligible employee is an individual who is employed in Canada who received eligible remuneration from the employer during the eligibility period unless the employee received no remuneration for 14 consecutive days.

- [How to Apply](#)

Eligible employers can apply for the CEWS through the Canada Revenue Agency's *My Business Account* portal as well as a web-based application. Employers need to keep records demonstrating their reduction in arm's-length revenues and remuneration paid to employees.

- [Ensuring Compliance](#)

Employers will be required to repay amounts paid under the CEWS if they do not meet the eligibility requirements. Penalties may apply.

Employers that engage in artificial transactions to reduce revenue for the purpose of claiming the CEWS will be subject to a penalty equal to 25 per cent of the value of the subsidy claimed, in addition to the requirement to repay in full the subsidy that was improperly claimed.

- [Interaction with 10 per cent Wage Subsidy](#)

Any benefit from the 10 per cent wage subsidy for remuneration paid in a specific period will generally reduce the amount available to be claimed under the CEWS in that same period.

- [Interaction with the 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 will reduce the benefit that their employer is entitled to receive under the CEWS.



- **Government Assistance**

The usual treatment of tax credits and other benefits provided by the government will apply. Consequently, the wage subsidy received by an employer will be considered government assistance and be included in the employer's taxable income.

Assistance received under either wage subsidy would reduce the amount of remuneration expenses eligible for other federal tax credits calculated on the same remuneration.

- **How employers will benefit from the CEWS?**

In the [backgrounder](#) for the subsidy, the following example is provided:

Maude and Stéphane own a corporation that operates an automobile repair shop in Saint Boniface, Manitoba. They are working full time, each drawing a salary of \$1,300 per week, and have three part-time employees, each earning \$800 per week, for a total weekly payroll of \$5,000. Maude and Stéphane have reduced their opening hours due to decreased demand for their services. They had initially laid off their employees, but they have now decided to re-hire them following the announcement of the Canada Emergency Wage Subsidy. Their employees are not being asked to report to work during this challenging period.

Maude and Stéphane are now keeping their employees on the payroll, paying them 75 per cent of their pre-crisis salary (\$600 per week). Maude and Stéphane would be eligible for a weekly wage subsidy of \$3,494 (\$847 for each of themselves and \$600 for each of their employees). Maude and Stéphane would also be eligible for a 100-per-cent refund of their employer-paid contributions to Employment Insurance and the Canada Pension Plan in respect of their employees, providing an additional benefit of up to \$124 per week.

At the end of each claiming period, Maude and Stéphane would apply through the Canada Revenue Agency portal, attesting that their decline in revenues in each month is sufficient to qualify, when compared to the average of January and February. They would also report the total remuneration paid to themselves and their furloughed employees during the month. As Maude and Stéphane have access to direct deposits with the Canada Revenue Agency, they would receive their subsidy shortly after each application.



- What does this mean for March 15 to April 11?

Consider the following scenario:

XYZ Inc. has three employees. Kyle works 40 hours a week and earns \$1,500.00 per week. Serge works 40 hours a week and earns \$1,000.00 per week. Rondae works part-time with varying hours and earns \$30.00 per hour. Between January 1, 2020 and March 15, 2020, he worked an average of 30 hours a week.

XYZ is not an essential business and was required to close on March 24, 2020. It has continued with on-line sales and deliveries. Kyle has continued to work from home processing sales and has been paid his full salary since March 24, 2020. Rondae has been working 10 hours per week doing deliveries. Serge was laid off effective March 24.

Weekly Subsidy for Kyle:

The greater of A or B:

A is the least of:

- 75% of remuneration paid \$1,500.00 = \$1,125.00, or
- \$847.00

B is the least of:

- Actual amount paid = \$1,500.00
- 75% of baseline (\$1,500.00) = \$1,125.00, or
- \$847.00

The subsidy for Kyle is \$847.00.

Subsidy for Serge:

As Serge was laid off on March 24 and did not work between March 25 and April 11, he was without remuneration for more than 14 consecutive days. Therefore, XYZ Inc. is not eligible for a subsidy for Serge.

Weekly Subsidy for Rondae:

The greater of A or B:

A is the least of:

- 75% of remuneration paid \$300.00 = \$225.00, or
- \$847.00



B is the least of:

- Actual amount paid: **\$300.00**
- 75% of baseline (\$900.00) = \$675.00, or
- \$847.00

The subsidy for Rondae is \$300.00.

- **What does it mean for after April 12?**

Effective April 12, 2020, XYZ Inc. “recalls” Serge and places him on a paid leave of absence. The most that XYZ Inc. can pay Serge is \$800.00 per week. In addition, XYZ Inc. increases the amount paid to Rondae to \$720.00 per week. However, Rondae continues to work only 10 hours a week.

Weekly Subsidy for Kyle:

The greater of A or B:

A is the least of:

- 75% of remuneration paid \$1,500.00 = \$1,125.00, or
- **\$847.00**

B is the least of:

- Actual amount paid = \$1,500.00
- 75% of baseline (\$1,500.00) = \$1,125.00, or
- **\$847.00**

The subsidy for Kyle is \$847.00.

Subsidy for Serge:

The greater of A or B:

A is the least of:

- 75% of remuneration paid \$800.00 = **\$600.00**, or
- \$847.00

B is the least of:

- Actual amount paid: \$800.00
- 75% of baseline (\$1,000.00) = **\$750.00**, or
- \$847.00



The subsidy for Serge is \$750.00.

Weekly Subsidy for Rondae:

The greater of A or B:

A is the least of:

- 75% of remuneration paid \$720.00 = ~~\$540.00~~, or
- \$847.00

B is the least of:

- Actual amount paid = \$720.00
- 75% of baseline (\$900.00) = ~~\$675.00~~, or
- \$847.00

The subsidy for Rondae is \$675.00.

- [How does it work with Work Share?](#)

Work Share benefits are subtracted from the amount an employer would otherwise receive as a subsidy. Consider the following scenario:

XYZ Inc. entered into a Work Share agreement with Kyle and Serge where instead of laying off Serge, both Kyle and Serge's hours were reduced from 40 hours per week to 24 hours per week. The impact on each of Kyle and Serge is as follows:

Work Share Pay for Kyle:

Kyle's hourly rate based on \$1,500 per week for 40 hours is \$37.50

Regular pay for 24 hours per week: $24 \times \$37.50 = \900.00

Kyle is paid EI for the two days per week. EI is the lesser of 55% of Kyle's regular earnings (\$330.00) or the pro-rated weekly EI maximum of $\$573.00 \times 2/5 = \229.20 .

Kyle's weekly earnings from the Work Share are \$1,120.20.

Work Share Pay for Serge:

Serge's hourly rate based on \$1,000.00 per week for 40 hours is \$25.00

Regular pay for 24 hours per week: $24 \times \$25.00 = \600.00

Serge's is paid EI for the two days per week. EI is the lesser of 55% of Kyles regular earnings (\$220.00) or the pro-rated weekly EI maximum of $\$573.00 \times 2/5 = \229.20 .



Serge's weekly earnings from the Work Share are \$820.00.

To calculate the weekly subsidy for Kyle:

Weekly Subsidy for Kyle:

The greater of A or B:

A is the least of:

- 75% of remuneration paid \$900.00 = **\$675.00**, or
- \$847.00

B is the least of:

- Actual amount paid = \$900.00
- 75% of baseline (\$1,500.00) = \$1,125.00, or
- **\$847.00**

Minus the total of the work-sharing benefit received - \$229.50

The subsidy for Kyle is \$617.50.

Weekly Subsidy for Serge

The greater of A or B:

A is the least of:

- 75% of remuneration paid \$600.00 = **\$450.00**, or
- \$847.00

B is the least of:

- Actual amount paid = **\$600.00**
- 75% of baseline (\$1,000.00) = \$750.00, or
- \$847.00

Minus the total of the work-sharing benefit received - \$220.00

The subsidy for Serge is \$380.00.



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i) the eligible entity's qualifying revenue for the prior reference period is deemed to be \$100, and
(ii) the eligible entity's qualifying revenue for the current reference period is deemed to be the total of all amounts, each of which is determined by the formula
 $\$100(A/B)(C/D)$

where

A

is the eligible entity's qualifying revenue (determined without reference to paragraph (d) of the definition qualifying revenue in subsection (1)) for the current reference period attributable to a particular person or partnership,

B

is the total of all amounts, each of which is the eligible entity's qualifying revenue (determined without reference to paragraph (d) of the definition qualifying revenue in subsection (1)) for the current reference period attributable to a particular person or partnership,

C

is the particular person or partnership's qualifying revenue (determined as if the definition qualifying revenue in subsection (1) were read without reference to "in Canada") for the current reference period, and

D

is the particular person or partnership's qualifying revenue (determined as if the definition qualifying revenue in subsection (1) were read without reference to "in Canada") for the prior reference period.