

2020 Issue No. 45
25 August 2020

Tax Alert – Canada

Transition plan from the CERB announced

EY Tax Alerts cover significant tax news, developments and changes in legislation that affect Canadian businesses. They act as technical summaries to keep you on top of the latest tax issues. For more information, please contact your EY advisor or EY Law advisor.

On 20 August 2020, the federal Minister of Employment, Workforce Development and Disability Inclusion, Carla Qualtrough, and the Deputy Prime Minister and Minister of Finance, Chrystia Freeland, announced the government's \$37 billion plan to transition from the Canada Emergency Response Benefit (CERB) into a simplified and enhanced Employment Insurance (EI) program or new benefits.

The plan includes four main components, which are further discussed below:

- ▶ A four-week extension of the CERB
- ▶ A temporary simplification and enhancement of the EI program
- ▶ The addition of three new temporary benefits
- ▶ A freeze of the EI premium rates for two years

Four-week extension of the CERB

The 24-week CERB program, which was scheduled to end on 29 August 2020, will be extended by four additional weeks to 26 September 2020, under the same eligibility criteria. Individuals that continue to meet the eligibility criteria will thus be able to reapply for one additional four-week period.

Given that subsection 8(2) of the *Canada Emergency Response Benefit Act* permits the Minister of Employment and Social Development to fix the maximum number of weeks for the CERB by regulation, no new legislation is required for the CERB extension – the prorogation of Parliament on 18 August 2020 should thus have no impact. We expect that the Income Support Payment (Number of Weeks) Regulations will be amended accordingly.

At the end of the CERB program, individuals eligible for EI who are already receiving benefits through Service Canada will be transitioned to the EI program. Individuals who are currently receiving the CERB from the Canada Revenue Agency (CRA) who believe they are entitled to EI will need to apply through Service Canada after 26 September 2020. Individuals not eligible for the simplified and enhanced EI program will be able to apply through the CRA to one of the three new temporary benefits (described below).

Temporary simplification and enhancement of the EI program

To simplify and enhance the EI program, the following temporary changes will be made:

- ▶ **Minimum unemployment rate** - Effective 9 August 2020 and as first announced on 10 August 2020, a unique minimum unemployment rate will be deemed to be 13.1% in all 62 EI economic regions in Canada for one year. As a result, EI claimants in EI economic regions with an actual unemployment rate lower than 13.1% will have their EI benefits calculated on the basis of the 13.1% rate (those in regions with a higher rate will continue to have their EI benefits calculated using the actual higher rate).
- ▶ **One-time insurable hours credit** - EI claimants will receive a one-time credit of 300 insurable hours for claims for regular EI benefits and of 480 insurable hours for claims for special EI benefits (i.e., sickness, maternity/parental, compassionate care or family caregiver benefits). This credit will be available for new EI claims for one year and, for special or work-sharing benefit claims, will be retroactive to 15 March 2020 (the qualifying period will accordingly be extended in this case).
- ▶ **Minimum number of insured hours** - The minimum number of insured hours required to qualify for the regular EI benefits will be lowered to 420 hours, or 120 hours (after applying the one-time credit of 300 hours), in all 62 EI economic regions (instead of generally ranging from 420 to 700 hours currently, depending on the actual economic rate of unemployment where the claimant is residing). Similarly, the minimum number of insured hours required to qualify for the special EI benefits will also be lowered to 120 hours (after applying the one-time credit of 480 hours), in all 62 EI economic regions (instead of the current 600 hours requirement).
- ▶ **Minimum number of weeks of benefit entitlement** - EI claimants will be entitled to a minimum of 26 weeks of regular EI benefits (instead of ranging from 14 to 26 currently, depending on the actual economic rate of unemployment where the claimant is residing and the number of insurable hours accumulated). Similarly, the number of best weeks of

earnings used in the calculation of the weekly benefit rate will be set at 14 (instead of ranging from 14 to 22 currently, depending on the actual economic rate of unemployment where the claimant is residing).

- ▶ **Minimum benefits** - Effective 27 September 2020, new EI claimants will receive a minimum benefit rate of \$400/week (or \$240/week for extended parental benefits), if it is higher than what their benefits would otherwise be (instead of generally currently being based on the claimant’s average weekly earnings before their EI claim). Similarly, self-employed EI fish harvesters who rely on EI fishing benefits in the off-season will be allowed to temporarily calculate their EI fishing benefits using either their actual fishing earnings for their current claim or their fishing earnings from their claim for the same season from the previous year, whichever is higher.

Given that under subsection 153.3(1) of the *Employment Insurance Act*, the Minister of Employment and Social Development may make interim orders for the purpose of mitigating the economic effects of COVID-19, no new legislation needs to be introduced by the government to adopt the abovementioned changes – the prorogation of Parliament on 18 August 2020 should thus have no impact. In fact, some of these changes (e.g., in respect of the minimum unemployment rate) have already been made and enacted by SOR/2020-173, *Interim Order No. 7 Amending the Employment Insurance Act (Employment Insurance Emergency Response Benefit)*. Additional interim orders are expected to be made.

New temporary benefits

Effective 27 September 2020, three new temporary benefits will also be available: the Canada Recovery Benefit (CRB), the Canada Recovery Sickness Benefit (CRSB) and the Canada Recovery Caregiving Benefit (CRCB).

These benefits, which are taxable and summarized below, will be available for one year and are essentially targeted at self-employed individuals and individuals not eligible for EI.

	Canada Recovery Benefit	Canada Recovery Sickness Benefit	Canada Recovery Caregiving Benefit
Benefit amount	\$400/week	\$500/week	\$500/week
Benefit duration	Up to 26 weeks	Up to two weeks	Up to 26 weeks
Eligible individual (requirements)	<ul style="list-style-type: none"> ▶ Resides in Canada ▶ Is at least 15 years old ▶ Has a valid social insurance number (SIN) ▶ Has stopped working due to COVID-19 and is available and looking for work (and will accept it where reasonable); or 	<ul style="list-style-type: none"> ▶ Resides in Canada ▶ Is at least 15 years old ▶ Has a valid SIN ▶ Is employed or self-employed at the time of application but unable to work because is sick or must self-isolate due to COVID-19 ▶ Earned at least \$5,000 in 2019 or in 2020 	<ul style="list-style-type: none"> ▶ Resides in Canada ▶ Is at least 15 years old ▶ Has a valid SIN ▶ Is employed or self-employed on the day immediately preceding the period for which the application is made ▶ Earned at least \$5,000 in 2019 or in 2020 ▶ Does not receive paid leave from an employer in respect of the same week ▶ Has been unable to work for at least 60% of his/her normally

	<p>is working and has had a reduction in his/her employment or self-employment income for reasons related to COVID-19</p> <ul style="list-style-type: none"> ▶ Had employment and/or self-employment income of at least \$5,000 in 2019 or in 2020 ▶ Is not eligible for EI ▶ Has not quit his/her job voluntarily 	<ul style="list-style-type: none"> ▶ Is not eligible for EI ▶ Does not receive other paid sick leave for the same period ▶ Has missed a minimum of 60% of his/her scheduled work in the week for which they claim the CRSB 	<p>scheduled work within a given week because of the following conditions:</p> <ul style="list-style-type: none"> ○ To take care of a child who is under 12 years of age; or ○ To provide care to a family member with a disability or a dependent due to (i) school, daycare, day program or care facility closure or alternative schedule operations due to COVID-19, (ii) the child, family member or dependent cannot attend school, daycare, day program or care facility as advised by a medical professional due to the child, family member or dependent being at high risk if he/she contracts COVID-19, or (iii) the usual caregiver is not available due to COVID-19 <ul style="list-style-type: none"> ▶ Does not receive the CERB, the EI emergency response benefit, the CRB, the CRSB, short-term disability benefits, workers' compensation benefits, or any EI benefits or Quebec Parental Insurance Plan (QPIP) benefits in respect of the same week ▶ Two members residing in the same household cannot receive the CRB for the same period
Frequency of application	After every two-week period	After the one-week period (in which he/she is seeking income support)	After the one-week period (in which he/she is seeking income support)
Attestation that requirements are met	Yes, to be provided with application	Yes, to be provided with application	Yes, to be provided with application
Repayment	Claimants must repay \$0.50 of the CRB for each dollar of their annual net income (not including the CRB) exceeding \$38,000 in the calendar year (up to the amount of CRB they received)	n/a	n/a

Individuals will be able to apply for these three new benefits through the CRA, as they will be administered by the CRA. Details on how and when Canadians can apply will be provided by the CRA in the coming weeks. However, the government needs to introduce and enact

legislation to deliver these benefits, and this will not occur until after the 23 September 2020 Throne Speech (Parliament is currently prorogued until then) and provided the government, which is in a minority situation, survives the confidence vote on the Throne Speech.

Two-year freeze of the EI premium rates

The government will be freezing the EI premium rate for employees at the 2020 level of \$1.58 per \$100 of insurable earnings for two years. Similarly, the rate for employers will also remain unchanged at \$2.21 per \$100 of insurable earnings.

The EI premium rate for residents of Quebec covered under the QPIP will remain \$1.20 per \$100 of insurable earnings, while their employers will continue to pay \$1.68 per \$100 of insurable earnings.

Given that under subsection 66.32(1) of the *Employment Insurance Act* and on the joint recommendation of the Minister of Employment and Social Development and the Minister of Finance, the Governor in Council (instead of the Canada Employment Insurance Commission) may set the premium rate, no new legislation needs to be introduced by the government to adopt the freeze – the prorogation of Parliament on 18 August 2020 should thus have no impact.

Learn more

For more information, please contact your EY advisor.

About EY

EY is a global leader in assurance, tax, strategy, transaction and consulting services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

EY refers to the global organization and may refer to one or more of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. Information about how EY collects and uses personal data and a description of the rights individuals have under data protection legislation are available via ey.com/privacy. For more information about our organization, please visit ey.com.

About EY's Tax Services

EY's tax professionals across Canada provide you with deep technical knowledge, both global and local, combined with practical, commercial and industry experience. We offer a range of tax-saving services backed by in-depth industry knowledge. Our talented people, consistent methodologies and unwavering commitment to quality service help you build the strong compliance and reporting foundations and sustainable tax strategies that help your business achieve its potential. It's how we make a difference.

For more information, visit ey.com/ca/tax.

About EY Law LLP

EY Law LLP is a national law firm affiliated with EY in Canada, specializing in tax law services, business immigration services and business law services.

For more information, visit eylaw.ca.

About EY Law's Tax Law Services

EY Law has one of the largest practices dedicated to tax planning and tax controversy in the country. EY Law has experience in all areas of tax, including corporate tax, human capital, international tax, transaction tax, sales tax, customs and excise.

For more information, visit <http://www.eylaw.ca/taxlaw>

© 2020 Ernst & Young LLP. All Rights Reserved.

A member firm of Ernst & Young Global Limited.

This publication contains information in summary form, current as of the date of publication, and is intended for general guidance only. It should not be regarded as comprehensive or a substitute for professional advice. Before taking any particular course of action, contact EY or another professional advisor to discuss these matters in the context of your particular circumstances. We accept no responsibility for any loss or damage occasioned by your reliance on information contained in this publication.