

The summary below reflects enacted legislation and government announcements publicly available as of May 4, 2020. For more current information refer to the federal government website at: <https://www.canada.ca/en/departement-finance/economic-response-plan.html>

COVID-19 Economic Response FAQ's for Individuals

(i) Canada Emergency Response Benefit (CERB)

Qualifications

You cannot have earned more than \$1,000 of income in the 14 days prior to application. Is that an ongoing requirement? Can you work as long as you only earn less than \$1,000 in every 2-week prior period or 4-week period once you are collecting?

According to the Canada Revenue Agency (CRA), the program is open to a worker:

- Residing in Canada, who are at least 15 years old;
- Who have stopped working because of reasons related to COVID-19 or is eligible for Employment Insurance regular or sickness benefits or has exhausted their Employment Insurance regular benefits or Employment Insurance fishing benefits between December 29, 2019 and October 3, 2020;
- Who had employment and/or self-employment income of at least \$5,000 in 2019 or in the 12 months prior to the date of their application; and,
- Who have not quit their job voluntarily

When submitting a first claim, the claimant cannot have earned more than \$1,000 in employment and/or self-employment income for 14 or more consecutive days within the four-week benefit period of the claim. When submitting subsequent claims, the claimant cannot have earned more than \$1,000 in employment and/or self-employment income for the entire four-week benefit period of your new claim.

Applying this rule to the fact situation; a claimant can continue to earn \$1,000 during the four-week period for which they are claiming.

The requirement that an applicant has "stopped working" appears to

be inconsistent with the eligibility requirement that an applicant can earn \$1,000. This matter has been brought to the CRA's attention by the Canadian Tax Foundation (CTF) and Chartered Professional Accountants Canada (CPA Canada). As of the date of publication no clarification has been provided.

For a self-employed sole proprietor, is the \$5,000 which must have been earned to qualify for the CERB, gross income or net income after expenses?

The short answer is, the \$5,000 is based on net income. "Net income" means gross revenue less expenses.

In determining the \$5,000 income amount for qualification and the \$1,000 of income that can be earned in respect of a four-week period, the following amounts are included (not exhaustive):

- Employment income
- Self-employment income (salary, business income, dividends)
- Tips earned while working and declared as income;
- Honoraria
- Royalties
- Non-eligible dividends paid out of corporate income of a Canadian Controlled Private Corporation and taxed at the small business rate.

Note that pensions, student loans, and bursaries are NOT included in determining the amounts. Note also that the opportunity to earn up to \$1,000 in respect of each four-week benefit period without impacting CERB eligibility appears to apply to both to part-time workers and self-employed individuals.

With respect to the \$5,000 requirement:

- There is no requirement the \$5,000 had to have been earned in Canada, but the applicant had to reside in Canada;
- The \$5,000 is based on net, and not gross income; and
- The \$5,000 had to have been earned in 2019 or in the twelve-month period preceding the day the applicant applied for the benefit

With regard to self-employment income, in determining CERB eligibility:

- Salary means pre-tax salary
- Business income means net pre-tax income (gross income less expenses)
- Dividends from an incorporated business qualify as self-employment income provided the dividends are non-eligible dividends.

To qualify for the CERB you must have \$5,000 in 2019 income. What if the income for 2020 is zero as they have not been working since September?

The short answer is, so long as the applicant earned \$5,000 in 2019 (or in the 12-month period preceding the period being applied for) they meet the requirements of the program regardless of whether they earned income in 2020 or not.

In determining the \$5,000 income amount for qualification and the \$1,000 of income that can be earned in respect of a four-week period, the following amounts are included (not exhaustive):

- Employment income
- Self-employment income (salary, business income, dividends)
- Tips earned while working and declared as income;
- Honoraria
- Royalties
- Non-eligible dividends paid out of corporate income of a Canadian Controlled Private Corporation and taxed at the small business rate.

Note that pensions, student loans, and bursaries are NOT included in determining the amounts. Note also that the opportunity to earn up to \$1,000 in respect of each four-week benefit period without impacting CERB eligibility appears to apply to both to part-time workers and self-employed individuals.

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- There is no requirement the \$5,000 had to have been earned in Canada, but the applicant had to reside in Canada;
- The \$5,000 is based on net, and not gross income; and
- The \$5,000 had to have been earned in 2019 or in the twelve-month period preceding the day the applicant applied for the benefit

Would someone who receives and reports foreign income qualify?

To qualify for CERB the applicant must have earned \$5,000 during 2019 (or in the 12-month period preceding the period being applied for) in employment and/or self-employment income. The employment or self-employment income does not have to be earned in Canada; however, the applicant must be a resident of Canada for income tax purposes at the time of application.

Also, according to the CRA website, employment and/or self-employment income includes among others: tips you have declared as income, non-eligible dividends; honoraria (e.g. nominal amounts paid to emergency services volunteers); and royalties (e.g. paid to artists in some cases). Accordingly, provided the foreign income meets the definition of employment and/or self-employment income it should qualify. Foreign income from investments, for example, would not qualify.

Do people absolutely need to be out of work due to COVID-19? If so, then how are they able to keep earning \$1,000 / 4 week period on a go forward basis?

The requirement that an applicant has “stopped working” appears to be inconsistent with the eligibility requirement that an applicant can earn \$1,000. This matter has been brought to the CRA’s attention by the CTF and CPA Canada. As of the date of publication no clarification has been provided.

According to the CRA, the program is open to a worker:

- Residing in Canada, who are at least 15 years old;
- Who have stopped working because of reasons related to COVID-19 or is eligible for Employment Insurance regular or sickness benefits or has exhausted their Employment Insurance regular benefits or Employment Insurance fishing benefits between December 29, 2019 and October 3, 2020;
- Who had employment and/or self-employment income of at least \$5,000 in 2019 or in the 12 months prior to the date of their application; and,
- Who have not quit their job voluntarily

When submitting a first claim, the claimant cannot have earned more than \$1,000 in employment and/or self-employment income for 14 or more consecutive days within the four-week benefit period of the claim. When submitting subsequent claims, the claimant cannot have earned more than \$1,000 in employment and/or self-employment income for the entire four-week benefit period of your new claim.

As currently designed, individuals earning more than \$1,000 in employment or self-employment income for a four-week period being claimed, would not be eligible for the CERB. Such individuals may

be better supported through an employer-based program such as the Canada Emergency Wage Subsidy (CEWS) or the work sharing program.

I have a client who is laid off but also maintains a rental property. Is this rental property/income going to be an issue for her to claim the CERB?

One of the requirements to receive the CERB is that the applicant must have stopped working due to COVID-19 and does not earn more than \$1,000 of employment or self-employment income in a period of at least 14 consecutive days in the first benefit period and for the entire four-week benefit period of any subsequent claim.

Therefore, whether the client will qualify for the CERB will depend on whether the rental income is considered “self-employment income” or not. The term self-employment income is synonymous to business income and subsection 9(1) of the Income Tax Act (“the Act”) provides that a taxpayer’s income from a business or property is the profit therefrom for the year. Although that subsection does not differentiate between these two sources of income, there are other areas in the Act where a business is treated as a source of income different from property and where, as a result, income from a business is subject to a different tax treatment than income from property. Whether rental income is considered business income or property income is a question of fact that can only be determined by an examination of the taxpayer’s whole course of conduct viewed considering surrounding circumstances. Provided your client was reporting the rental income as property income in previous years, and the circumstances have not changed from prior years, it is likely that the rental income is still considered property income and therefore would not prevent her from collecting the CERB, provided she meets all the other criteria.

Am I eligible for the CERB, being a group savings advisor and receiving trailing commissions of more than \$ 1,000 / month?

This is not new income, but investment income sold before the pandemic. In short, these are not new revenues earned from new customers.

Self-employed individuals are eligible provided they meet the eligibility criteria including that they stopped working due to COVID-19 and do not earn more than \$1,000 in a period of at least 14 consecutive days in the first benefit period and for the entire four-week benefit period of any subsequent claim.

Small Business owners can receive income from their business in different ways, including as salary, business income or dividends. In determining their eligibility for the CERB:

- Owners who take a salary from their business should consider their pre-tax salary;

- Owners who rely on business income should consider their net pre-tax income (gross income less expenses);
- Owners who rely on dividend income should consider this as self-employment income provided it comes from non-eligible dividends (generally, those paid out of corporate income taxed at the small business rate).

If your current income is related only to previous sales, you may be eligible if you do not earn more than \$1,000 during the 4-week period as mentioned above. Although you have received cash, you have not performed any activity that would have generated income. In your case, this is a collection of income earned before March 15 for work done previously.

Currently, the CRA has not issued guidance on this specific situation; however, they may in the future. See question below,

“If someone has applied for the Canada Emergency Response Benefit and after receiving the benefit, realizes they didn’t qualify, how do they repay that amount?”

under “Administrative Matters”.

If a self-employed person shows a reduction in their revenue, is there a type of CERB that they can access?

If you are a self-employed individual, you can claim the CERB. The requirement to show a reduction in revenue relates to the CEWS discussed in our [COVID-19 Economic Response Plan FAQ’s for Businesses](#).

According to the CRA, the program is open to a worker:

- Residing in Canada, who are at least 15 years old;
- Who have stopped working because of reasons related to COVID-19 or is eligible for Employment Insurance regular or sickness benefits or has exhausted their Employment Insurance regular benefits or Employment Insurance fishing benefits between December 29, 2019 and October 3, 2020;
- Who had employment and/or self-employment income of at least \$5,000 in 2019 or in the 12 months prior to the date of their application; and,
- Who have not quit their job voluntarily

When submitting a first claim, the claimant cannot have earned more than \$1,000 in employment and/or self-employment income for 14 or more consecutive days within the four-week benefit period of the claim. When submitting subsequent claims, the claimant cannot have earned more than \$1,000 in employment and/or self-employment income for the entire four-week benefit period of your new claim.

If you are earning more than \$1,000 as a self-employed individual and you have no employees, the only other programs available for you are:

Canada Emergency Commercial Rent Assistance (CECRA)

This program offers forgivable loans to eligible commercial property owners so that they can reduce the rent owed by their impacted small business tenants by at least 75% for the months of April, May and June 2020. Impacted small business tenants are businesses, including non-profit and charitable organizations who:

- pay no more than \$50,000 in monthly gross rent per location (as defined by a valid and enforceable lease agreement),
- generate no more than \$20 million in gross annual revenues, calculated on a consolidated basis (at the ultimate parent level), and
- have temporarily ceased operations (i.e. generating no revenues), or has experienced at least a 70% decline in pre-COVID-19 revenues. To measure revenue loss, small businesses can compare revenues in April, May and June of 2020 to that of the same month of 2019. They can also use an average of their revenues earned in January and February of 2020.

Deferral of Income Tax and GST/HST Payments

Personal income tax balances and instalments payable, otherwise due on April 30 and June 15, 2020, respectively, can be deferred until September 1, 2020 without interest or penalties.

GST/HST payments due from March 27 to June 30, 2020, can be deferred until June 30, 2020 without interest or penalties.

Use of the Funds

Can a sole proprietor use the CERB to pay HST or quarterly payments?

The program is open to a worker:

- Residing in Canada, who is at least 15 years old;
- Who has stopped working because of reasons related to COVID-19 or is eligible for Employment Insurance regular or sickness benefits or have exhausted their Employment Insurance regular benefits or Employment Insurance fishing benefits between December 29, 2019 and October 3, 2020;
- Who had employment and/or self-employment income of at least \$5,000 in 2019 or in the 12 months prior to the date of their application; and,
- Who have not quit their job voluntarily

So long as a sole proprietor meets these conditions, he or she is entitled to the CERB benefit.

As for the use the recipient makes of the money there is no restriction. Therefore, a sole proprietor would be free to pay their HST or quarterly payments with the CERB funds. One word of caution, the CERB benefit

is taxable as income in the hands of the recipient when filing their 2020 taxes. The sole proprietor would be well advised to budget for that tax liability.

A reminder that GST returns and payments are now due on June 30, 2020. Income tax returns are due on June 1, 2020 (if you are self employed returns are still due on June 15, 2020) but any amount of income taxes are due on September 1, 2020.

Administrative Matters

How would an advisor prove a 30% drop in revenue? Would commission statements be sufficient?

The decrease in revenue is measured according to normal accounting practice, with the exception that for this purpose, the business owner can choose cash basis or accrual method. If commission statements formed the basis to prove revenue in the comparative period, then they would be appropriate source documents to prove revenue for the claim period.

If someone has applied for the Canada Emergency Response Benefit and after receiving the benefit, realizes they didn't qualify, how do they repay that amount?

There are a few reasons a person might wish to stop receiving the CERB benefit, including they are now earning more than the \$1,000 which may be earned while receiving the benefit. Any overpayment will be small because a claimant must reapply every month. Therefore, the most a person could be overpaid would be \$2,000 and that assumes the claimant discovered they were not entitled within the first couple weeks after applying.

The Government of Canada's website provides repayment should be mailed to the CRA ensuring the following:

- The payment is payable to "Receiver General for Canada"
- The payment indicates the reason for the payment is "Repayment of CERB"
- The individual includes their Social Insurance Number (SIN) or your Temporary Tax Number (TTN)

The payment should be mailed to:

Revenue Processing – Repayment of CERB
Sudbury Tax Centre
1050 Notre Dame Avenue
Sudbury ON P3A 0C3

Beginning May 11, the CRA will offer repayment through My Account which most recipients used to originally apply.

CERB is taxable, which means a T4 will be issued. CRA is asking people to return any money before December 31 to avoid receiving a T4 or an incorrect T4.

(ii) The Canada Emergency Student Benefit (CESB)

Qualifying

I have a client who is a mature student, retired and studying for a 2nd career. She has graduated from post secondary education as of April and she was supposed to complete provincial licensing this summer and start earning a wage/income as of the Fall. Would she qualify for the new student income support plan?

The CESB was announced on April 22, 2020 but the legislation has not yet been released. It provides postsecondary students \$1,250 a month payment from May to August, or \$2,000 if the student was disabled or supported a dependant.

The qualifications for CESB are:

- The student is enrolled in a post-secondary education program leading to a degree, diploma, or certificate or graduated no earlier than December 2019; or
- The student is a high-school graduate who have applied for and will be attending a post-secondary program in the coming months;
- Students must be able to demonstrate they are seeking work
- Students must not be receiving the CERB

The program is open to both Canadian students studying in Canada and Canadian students studying abroad.

Based on the above qualifications it would appear that your client will qualify for the CESB.

In addition to the CESB, your client may also qualify for the Canada Student Service Grant (CSSG). This program is for students who choose to do national service and serve their communities. The CSSG will provide up to \$5,000 for their education in the fall. Again, not many details have been announced yet and based on the wording on the CRA website that it "will provide up to \$5,000 for their education in the fall" may mean that the use of these funds is restricted. If your client is not returning to school in the fall, she may not qualify.

Administrative Matters

If you are a student and qualify for CERB but do not qualify for the student program, can you can apply for the CERB?

The CESB was announced on April 22, 2020 and provides postsecondary students \$1,250 a month payment from May to August, or \$2,000 if the student was disabled or supported a dependant. If a student does not qualify for the CESB he or she may apply for the CERB assuming he or she qualifies; however, they cannot qualify for both simultaneously.

The qualifications for CESB are:

- The student is enrolled in a post-secondary education program leading to a degree, diploma, or certificate or graduated no earlier than December 2019; or
- The student is a high-school graduate who have applied for and will be attending a post-secondary program in the coming months;
- Students must be able to demonstrate they are seeking work
- Students must not be receiving the CERB

The program is open to both Canadian students studying in Canada and Canadian students studying abroad.

The CERB is open to a worker:

- Residing in Canada, who are at least 15 years old;
- Who have stopped working because of reasons related to COVID-19 or is eligible for Employment Insurance regular or sickness benefits or has exhausted their Employment Insurance regular benefits or Employment Insurance fishing benefits between December 29, 2019 and October 3, 2020;
- Who had employment and/or self-employment income of at least \$5,000 in 2019 or in the 12 months prior to the date of their application; and,
- Who have not quit their job voluntarily.

When submitting your first claim, you cannot have earned more than \$1,000 in employment and/or self-employment income for 14 or more consecutive days within the four-week benefit period of your claim. When submitting subsequent claims, you cannot have earned more than \$1,000 in employment and/or self-employment income for the entire four-week benefit period of your new claim.

What if a university student, applied for CERB prematurely, and then the Student program was subsequently announced? Cheques were mailed to the student. What should he do to return the money?

The CESB was announced on April 22, 2020 and provides postsecondary students \$1,250 a month payment from May to August, or \$2,000 if the student was disabled or supported a dependant. As the CERB was announced earlier it may be that a student has applied under both programs. Receiving benefits from both programs is not permitted.

If a student has already qualified for the CERB, he or she should not apply for the CESB. The CESB is for students who did not meet the requirements of the CERB program. If a student is already receiving the CERB and does apply for the CESB, he or she is disqualified from the CERB payment.

The overpayment should be returned. The Government of Canada's website provides repayment should be mailed to the CRA ensuring the following:

- The payment is payable to "Receiver General for Canada"
- The payment indicates the reason for the payment is "Repayment of CERB"
- The individual includes their Social Insurance Number (SIN) or your Temporary Tax Number (TTN)

The payment should be mailed to:

Revenue Processing – Repayment of CERB
Sudbury Tax Centre
1050 Notre Dame Avenue
Sudbury ON P3A 0C3

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Published May 19, 2020



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20-05-0647_E (05/20)