

Canada Emergency Wage Subsidy (“CEWS”) - Modified August 10, 2020

The Government of Canada had introduced a wage subsidy of 75% for qualifying businesses, for up to 4 months, ending on July 4, 2020. In July 2020, the Government has extended the program until December 31, 2020. Additional qualifying criteria has been introduced to allow most companies to qualify if they have experienced a decrease in revenue. This announcement addresses the new rules associated with the modified CEWS program which will affect claims for Period 5 and onwards. Please refer to our previous publication for the prior periods, which is located [here](#).

The modified CEWS Program:

Effective July 5, 2020, the modified CEWS program consists of two parts:

- a base subsidy available to all eligible employers that are experiencing a decline in revenues, with the subsidy amount varying depending on the scale of revenue decline; and
- a top-up subsidy of up to an additional 25% for those employers that have been most adversely affected by the COVID-19 crisis.

Base subsidy - the new rate structure:

Period	Maximum weekly benefit per employee	Subsidy rate for revenue drop of 50% and over	Subsidy rate for revenue drop of 0% - 49%
Period 5 – Jul 5 – Aug 1	Up to \$677	60%	1.2 x revenue drop % (e.g. 20% revenue drop = 24% rate)
Period 6 – Aug 2 – Aug 29	Up to \$677	60%	1.2 x revenue drop %
Period 7 – Aug 30 – Sep 26	Up to \$565	50%	1.0 x revenue drop %
Period 8 – Sep 27 – Oct 24	Up to \$452	40%	0.8 x revenue drop %
Period 9 – Oct 25 – Nov 21	Up to \$226	20%	0.4 x revenue drop %

Safe harbour rule:

For Periods 5 and 6, an eligible employer would be entitled to a CEWS rate not lower than the rate that they would be entitled to if their entitlement were calculated under the CEWS rules that were in place for Periods 1 to 4. This means that in Periods 5 and 6, an eligible employer with a revenue decline of 30% or more in the relevant reference period would receive a CEWS rate of at least 75% or potentially an even higher (to a maximum of 85%) CEWS rate using the new rules outlined on this announcement.

For details on Periods 1 to 4, please refer to our previous publication.

Top-up subsidy (3-month average revenue drop) - the rate structure:

3-month average revenue drop	Top-up CEWS rate	Top-up calculation 1.25 x (3 month revenue drop – 50%)
70% and over	25%	1.25 x (70% - 50%) = 25%
65%	18.75%	1.25 x (65% - 50%) = 18.75%
60%	12.5%	1.25 x (60% - 50%) = 12.5%
55%	6.25%	1.25 x (55% - 50%) = 6.25%
50% and under	0%	1.25 x (50% - 50%) = 0%

The overall CEWS rate would be equal to the top-up CEWS rate plus the base CEWS rate. For example, for Period 5 or 6, if a company has 70% or more revenue drop in the preceding 3 months and at least 50% revenue drop compared to the prior reference period, that company should be eligible for 85% wage subsidy rate and \$960 per employee calculated as follows:

Base subsidy maximum for more than 50% revenue drop = 60%

Top-up subsidy maximum for more than 70% revenue drop = 25%

Total CEWS rate = 85%

Maximum remuneration per employee per week = \$1,129

Subsidy amount per employee per week = \$960 [\$1,129 x 85% rate]

See table below on the combined base CEWS and the top-up CEWS for Period 5 and 6 with the average revenue drop in the preceding 3 months.

Rate calculation for combined base CEWS and top-up CEWS for Period 5 and 6*:

	Preceding 3-month average revenue drop of 70% or more (e.g. 70% revenue drop)	Preceding 3-month average revenue drop of 50% - 69% (e.g. 60% revenue drop)	Preceding 3-month average revenue drop of 0% - 49% (e.g. 20% revenue drop)
Current 1-month revenue drop of 50% or more (e.g. 50% revenue drop)	85% (60% base CEWS + 25% top-up)	75%* (60% base CEWS + 1.25 x (60% - 50%) = 12.5% top-up) = 72.5%	75%* (60% base CEWS + 0% top-up) = 60%
Current 1-month revenue drop between 0% - 49% (e.g. 20% revenue drop)	49% (1.2 x 20% revenue drop = 24% base CEWS + 25% top-up)	36.5% (1.2 x 20% revenue drop = 24% base CEWS + 1.25 x 60% revenue drop - 50% = 12.5% top-up)	24% (1.2 x 20% revenue drop = 24% base CEWS + 0% top-up)
No revenue drop (e.g. 0% revenue drop)	25% (0% base CEWS + 25% top-up).	12.5% (0% base CEWS + 1.25 x 60% revenue drop - 50% = 12.5% top-up)	nil.

*Note: due to the safe harbour rule, if you have at least 30% revenue drop for the current 1-month revenue drop, you should qualify for at least 75% of the subsidy.

Base CEWS - reference periods for the drop-in-revenues test:

For Period 5 and all subsequent periods, an eligible employer would be able to use the greater of its percentage revenue decline in the current period and that in the previous period for the purpose of determining its qualification for the base CEWS and its base CEWS rate in the current period.

	Claim period	General approach	Alternative approach
Period 5	Jul 5 – Aug 1, 2020	Jul 2020 compared to Jul 2019, or Jun 2020 compared to Jun 2019	Jul 2020 or Jun 2020 compared to average of Jan/ Feb 2020.
Period 6	Aug 2 – Aug 29, 2020	Aug 2020 compared to Aug 2019, or Jul 2020 compared to Jul 2019	Aug 2020 or Jul 2020 compared to average of Jan/ Feb 2020.
Period 7	Aug 30 – Sep 26, 2020	Sep 2020 compared to Sep 2019, or Aug 2020 compared to Aug 2019.	Sep 2020 or Aug 2020 compared to average of Jan/ Feb 2020.
Period 8	Sep 27 – Oct 24, 2020	Oct 2020 compared to Oct 2019, or Sep 2020 compared to Sep 2019.	Oct 2020 or Sep 2020 compared to average of Jan/ Feb 2020.
Period 9	Oct 25 – Nov 21, 2020	Nov 2020 compare to Nov 2019, or Oct 2020 compared to Oct 2019.	Nov 2020 or Oct 2020 compared to average of Jan/Feb 2020.

Employers that have elected to use the alternative approach for the first 4 periods would be able to either maintain that election for Period 5 and onward or revert to the general approach. Similarly, employers that have used the general approach for the first 4 periods would be able to either continue with the general approach or elect to use the alternative approach for Period 5 and onward. Whichever approach is chosen should apply for Period 5 and onward and would apply to the calculation of the base CEWS and the top-up CEWS.

Top-up CEWS - reference periods for the drop-in-revenues test:

For the purpose of the top-up CEWS, eligibility would generally be determined by the change in an eligible employer's revenues for a 3-month period.

	Claim period	General approach	Alternative approach*
Period 5	Jul 5 – Aug 1, 2020	Apr to Jun 2020 compared to Apr to Jun 2019	Apr to Jun 2020 compared to average of Jan/ Feb 2020.
Period 6	Aug 2 – Aug 29, 2020	May to Jul 2020 compared to May to Jul 2019	May to Jul 2020 compared to average of Jan/ Feb 2020.
Period 7	Aug 30 – Sep 26, 2020	Jun to Aug 2020 compared to Jun to Aug 2019	Jun to Aug 2020 compared to average of Jan/ Feb 2020.
Period 8	Sep 27 – Oct 24, 2020	Jul to Sep 2020 compared to Jul to Sep 2019	Jul to Sep 2020 compared to average of Jan/ Feb 2020.
Period 9	Oct 25 – Nov 21, 2020	Aug to Oct 2020 compared to Aug to Oct 2019.	Aug to Oct 2020 compared to average of Jan/Feb 2020.

*Alternative approach = The calculation would equal the average monthly revenue over the 3 months of the reference period divided by the average revenue for the months of January and February 2020.

Other updates for the existing CEWS program:

Eligible entities:

- Currently individuals, taxable corporations (Canadian controlled private corporations (“CCPC”), non-CCPCs), partnerships, sole proprietorships, non-profit organizations and registered charities qualify for the CEWS program and are expected to be eligible for the Period 5 and onwards. In addition, the following eligible entities have been added:
 - Partnerships that are up to 50% owned by non-eligible members,
 - Non-public colleges and schools, including institutions that offer specialized services, such as arts schools, driving schools, language schools or flight schools.
 - 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, and
 - Registered Journalism Organizations.
- Must file an application before February 1, 2021.

Furloughed Employees:

For Periods 5 and 6, the subsidy calculation for a furloughed employee would remain the same as for Periods 1 to 4. It would be the greater of:

- For arm's-length employees, 75% of the amount of remuneration paid, up to a maximum benefit of \$847 per week; and
- 75% of the employee's pre-crisis weekly remuneration up to a maximum benefit of \$847 per week or the amount of remuneration paid, whichever is less.

Beginning in Period 7, CEWS support for furloughed employees would be adjusted to align with the benefits provided through the Canada Emergency Response Benefit (CERB) and/or Employment Insurance (EI). Effective July 5, 2020, the eligibility criteria would no longer exclude employees that are without remuneration in respect of 14 or more consecutive days in an eligibility period. For Period 5 and subsequent periods, the CEWS for furloughed employees would be available to eligible employers that qualify for either the base rate or the top-up for employees in the relevant period.

Pre-crisis remuneration:

- For active arm's-length employees, the amount of remuneration would be based solely on actual remuneration paid for the eligibility period, without reference to the pre-crisis remuneration concept used for earlier CEWS periods.
- For non-arm's length employees for Period 5 and subsequent periods, the wage subsidy would be based on the employee's weekly eligible remuneration or pre-crisis remuneration, whichever is less, up to a maximum of \$1,129.
- For Period 5 and subsequent periods, the pre-crisis remuneration of an employee would be based on the average weekly remuneration paid to the employee from January 1 to March 15, 2020 or from July 1, 2019 to December 31, 2019. In all cases, the calculation of average weekly remuneration would exclude any period of 7 or more consecutive days without remuneration. Employers can choose which period to use on an employee-by-employee basis.
- The subsidy would only be available in respect of non-arm's-length employees that were employed prior to March 16, 2020.

Special situations:

- Providing an appeal process based on the existing procedure for notices of determination that allows for an appeal to the Tax Court of Canada;
- Providing continuity rules for the calculation of an employer's drop in revenues in certain circumstances where the employer purchased all or substantially all the assets used in carrying on business by the seller;
- Allowing prescribed organizations that are registered charities or non-profit organizations to choose whether to include government-source revenue for the purpose of computing their reductions in qualifying revenue; and
- Allowing entities that use the cash method of accounting to elect to use accrual based accounting to compute their revenues for the purpose of the CEWS.

How to apply: (no changes are expected)

- Eligible employers have the following three options:
 1. Applying through a CRA online *My Business Account* portal.
 2. Request their authorized representative to apply through CRA online *Represent a Client* portal.
 3. CRA online portal with [Web Access Code](#).
- Generally, the CRA makes payments within 10 business days if the employer is registered for direct deposit on the payroll account and not selected for additional review.
- If you have more than one payroll account number ("RP" number) you will need to do a separate application for each number (15-digit BN).
- Eligible employers are expected to (re)apply for each period.

Compliance and supporting documentation:

- Employers will be required to keep records demonstrating their reduction in arm's-length revenues and remuneration paid to employees. To support the claim in the CEWS application, adequate calculations should generally be prepared and maintained through working papers.
- The CRA will use a combination of automated queries and validation within its data, follow-up phone calls to verify certain elements of the claim when necessary, and more comprehensive post-payment reviews or audits.
- Employers will be expected to report the amount of the wage subsidy that was used to pay each of their employees' salaries by using a special code in the "Other information" area at the bottom of the employees' T4 slips.
- Employers will be required to repay amounts received under the subsidy if they do not meet the eligibility requirements.
- Employers that engage in artificial transactions to reduce revenue for the purpose of claiming the subsidy would be subject to a penalty equal to 25% of the value of the subsidy claimed, in addition to the requirement to repay in full the subsidy that was improperly claimed.
- If an employer knowingly, or under circumstances amounting to gross negligence makes, or is involved in the making of, a false statement or omission in its CEWS application for a claim period, the employer is liable to a penalty – commonly referred to as the "gross negligence penalty" – of up to 50% of the difference between the amount of CEWS that it claimed in its application and the amount of CEWS to which it is actually entitled.
- The CRA may communicate or make available to the public, in any manner, the name of any person or partnership that makes an application for this subsidy. The CRA is expected publish a list or registry of wage subsidy applicants.