



business meeting

SMALL BUSINESS OWNERS: OPTING INTO THE SOCIAL SAFETY NET

There is a lot of upside to being self-employed as Canadians who choose self-employment generally enjoy more autonomy in their working lives and can claim a number of tax benefits not available to those who earn their income from employment. What the self-employed don't generally have access to, however, is the security that comes from being covered under the government programs that make up Canada's social safety net for workers. Generally, those who are self-employed can count on receiving income only when they are working.

To the extent they want to or must take time away from the business, whether for personal or family reasons, such leave must be self-financed, or paid for through private insurance coverage.

By contrast, Canadians who work as employees can, in almost all cases, receive Employment Insurance (EI) benefits when they are temporarily out of the work force because of a job loss, family illness, or the birth or adoption of a child. Until recently, none of those benefits were available to the self-employed.

Recent changes to Canada's EI system, however, mean that small business owners can opt-in to some parts of that system. Specifically, individuals who are Canadian citizens or permanent residents of Canada and who own their own business (or who work for a corporation but can't access EI benefits because they own more than 40% of the corporation's voting shares) can choose to pay EI premiums and become eligible to claim what are known as EI "special benefits". Those special benefits include maternity, parental, sickness, and compassionate care benefits.

Notably absent from that list are EI regular benefits received as the result of a job loss (such benefits are not currently available to the self-employed).

While each of the possible types of benefits has its own set of qualifications and restrictions, there are some general rules which apply across the board. First, in order to become eligible for any of the special benefits, it's necessary for a small business owner to register with the Canada Employment Insurance Commission through the Service Canada website at http://www.servicecanada.gc.ca/eng/sc/ei/sew/application_information.shtml.

Once registered, the individual must pay EI premiums. While employed Canadians have such premiums deducted at source from their paycheques, the process is necessarily different for the small business owner. Once notification of a successful registration is received, EI premiums payable will be calculated based on the individual's income for that calendar year. For example, if a small business owner registers in 2015 to participate in the program, EI premiums will be calculated based on income reported on the 2015 income tax return and will be payable by the usual tax payment deadline of April 30, 2016. In other words, regardless of when a person registers during a given year, EI premiums are payable based on income from self-employment for the entire year.

Until 2017, the premium for residents of all provinces except Quebec is \$1.88 per \$100 of income, to a maximum premium payable of \$955.04 per year. Since Quebec has its own parental insurance program that offers maternity, paternity, and parental benefits, premium amounts payable are different for Quebec residents. For years before 2017, self-employed Quebec residents who register for the EI program will pay \$1.52 for every \$100 of earnings, up to a total of \$772.16 for the year.

Small business owners who register for EI must also wait 12 months from the date of registration before qualifying for any kind of EI special benefits. For example, someone who registered on November 13, 2015, will be able to apply for EI special benefits as of November 13, 2016. As well, such individuals, in addition to paying premiums, must have earned a minimum amount of self-employment income in the year before any claim is made. For claims made in 2016, it's necessary to have earned at least \$6,680 in income from self-employment during 2015.

For most small business owners, being away from the business for an extended period of time just isn't a realistic option except where the business owner is seriously ill or injured. However, it's not necessary in order to claim EI special benefits that business activity, or business income, completely cease. Rather, EI special benefits can be claimed (assuming, of course, that all other criteria have been satisfied) where the time the business owner spends at his or her business is reduced by more than 40%.

What benefits are available?

Small business owners who opt into the EI system are eligible to receive what are termed "special benefits". Essentially, special benefits are those which may be received in prescribed situations other than a job loss. While the benefits payable under each type of special benefit are largely the same, each has its own set of qualification rules, as follows.

Maternity benefits

As the name implies, maternity benefits are payable to a new mother (including surrogate mothers), immediately before and following the birth of a child. As is the case with other types of EI special benefits, anyone claiming maternity benefits must have worked (and paid EI premiums) for at least 600 hours in the 52 weeks prior to the time that benefits begin to be paid. Such maternity



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benefits can begin any time up to 8 weeks prior to the expected date of birth, and can end as late as 17 weeks after the actual date of birth.

Maternity benefits are paid for a maximum of 15 weeks. In common with other types of EI benefits, there is a two-week waiting period (which usually is at the beginning of the “benefit period”) during which no benefits are payable. For example:

If an application for benefits is made on April 1, 2016, and the baby is born on April 7, no benefits will be paid for the period April 1-15, which will count as the two-week waiting period. Thereafter, benefits will be payable for a 15 week period, until July 27, 2016.

The benefit amount which may be received on a maternity benefits claim is the same as for any other type of EI claim. In other words, 55% of the average weekly earnings over the qualifying period to a maximum (for 2016) of \$537 per week.

Parental benefits

New parents have a decision to make once maternity benefits are exhausted. A further benefit, the parental benefit, becomes available at that time, but that benefit can be claimed and received by either parent. The parental benefit differs, as well, in that it may be claimed by adoptive parents, starting from the date their adoptive son or daughter is placed with them.

Whether paid to birth or adoptive parents, the parental benefit is available for a period of 35 weeks,

but that 35-week period must fall within a year after the birth or adoption of a child. Parental benefits can be paid from the time a child is born (in other words, maternity and parental benefits can be paid simultaneously), or can be applied for after maternity benefits have been exhausted. The rules provide new parents with a great deal of flexibility in structuring parental benefits, as shown in the following examples outlined on the Service Canada website.

- *If the biological mother wants to return to work after her maternity leave, the other parent can then take the 35 weeks of parental benefits.*
- *If one spouse decides to take only 10 weeks of parental leave before returning to work, the other spouse can use the remaining 25 weeks of benefits.*
- *If one spouse decides to return to work after taking a few weeks of parental leave, but then realizes a few weeks later that he or she would prefer to stay home with the child, he or she is still entitled to the unused weeks of parental benefits, as long as the 52-week period after the birth or adoption placement has not expired.*

When parental benefits are claimed, there’s usually no need for a second two-week waiting period to be served. In other words, if the two-week waiting period has already been served for EI maternity benefits, then neither of the two parents has to serve a waiting period if one or the other submits

an application for EI parental benefits. No matter which parent claims and receives parental benefits, the benefit calculation amount is the same: 55% of earnings during the qualification period, to a maximum benefit of \$537 per week.

Quebec Parental Insurance Plan

The benefit structure and rules outlined above are administered by the federal government. However, the province of Quebec has, since 2006, maintained its own Quebec Parental Insurance Program (QPIP), and residents of that province may receive special benefits under that program.

The QPIP provides benefits on the birth or adoption of a child. As with the EI system, maternity benefits are claimable only by the mother. The QPIP also provides for paternal benefits (claimable only by the father) and parental benefits (claimable by either parent or shared between them). Many of the qualification rules for federal EI benefits are mirrored by the QPIP program. Small business owners who wish to receive QPIP benefits must have been engaged in business activities during the “qualifying period”, being the calendar year preceding the year in which benefits are to be claimed. During that qualifying period, at least \$2,000 in income must have been earned from the business, and QPIP premiums paid on that income. As well, there must have been a reduction in time spent on the business of at least 40%.

Unlike the Employment Insurance system, however, when an application is made for benefits under the Québec Parental Insurance Plan, an applicant can choose between two options: the basic plan or the special plan. Under the basic plan, lower benefits are received for a longer period of time whereas the special plan provides for higher benefits paid for a shorter period.

The choice of plan is determined by the first of the two parents to receive benefits. Once benefits begin, the choice of plan is irrevocable and will apply for the entire length of the benefit period. The time periods for which the two types of benefits can be received, and the percentage amounts of each, are outlined on the Quebec government website at http://www.rqap.gouv.qc.ca/travail-leur_autonome/choix_en.asp.

Sickness benefits

Eventually, everyone is faced with illness or injury, and while most employers allow employees to be away sick for some number of days each year without losing pay and may additionally provide for disability insurance coverage for longer health-related absences, small business owners are left on their own.

Such business owners can, of course, obtain and pay for individual disability insurance policies, and benefits received under those policies aren't taxed. But such policies are often expensive, and there is normally a waiting period before benefits are payable. Opting into the EI system to obtain eligibility for EI sick benefits, in case they are needed for short-term injury or illness, is often a more cost-effective approach.

Once again, the name is self-explanatory. EI sickness benefits are paid where an eligible individual can't work because of illness, injury, or because he or she is quarantined. Where such benefits are applied for, a medical certificate signed by a doctor must be provided.

The rules governing EI sickness benefits are much the same as for other types of special benefits. In order to be eligible for such benefits, a small business owner must be registered with the Canada Employment Insurance Commission, must have earned at least \$6,680 in the year prior to which a claim for sickness benefits is made, and must have paid EI premiums as required.

Once those requirements are met (and a medical certificate is provided), it's possible to claim up to 15 weeks of sickness benefits. A two week waiting period must be served and, following that waiting period, a weekly benefit equal to 55% of income earned during the qualifying period, to a maximum of \$537 per week is payable.

It doesn't take much calculating to see that the cost of EI premiums relative to benefit amounts make it a very inexpensive source of insurance against short-term illness or injury. Someone who earns at least \$50,800 in income from self-employment will pay the maximum EI premium of \$955.04 for the year. Where that person must make a claim for EI sickness benefits, the amount of those benefits (since the individual will be able to receive the maximum benefit amount of \$537 per week) will



exceed the annual premium payable in less than two weeks. Put another way, where a small business owner is eligible for the maximum sickness benefit amount of \$537 per week, the amount received over a 15-week claim period will be greater than the amount of premiums paid over 8 years.

Compassionate care benefits and benefits for parents of critically ill or injured children

The EI system provides for two types of what is termed “compassionate care benefits”. While the specific circumstances in which each benefit is paid and the criteria for receiving each are different, both have the same purpose: to provide income to individuals who take time away from work to care for a critically (or terminally) ill relative or child.

The first type of such benefits is available where a relative is seriously ill, such that there is a significant risk of them dying within the next six months. In such circumstances, it’s possible for an individual who provides care and support to the adult relative to receive up to 26 weeks of compassionate care benefits (effective January 1, 2016).

The rules for who may claim the benefit are quite broad and flexible. There is a long list of the kinds of relatives in respect of whose care the benefit may be claimed, including: children, spouses, parents and step-parents, fathers-in-law and mothers-in-law, grandparents and step-grandparents, sons and daughters-in-law, brothers and sisters-in-law, uncles and aunts (and their spouses), and nephews and nieces (and their spouses). In each case, care for relatives of one’s spouse who fall into any of these categories may also qualify. Finally, even where one is not related by blood or marriage to a person requiring care and support, the compassionate care benefit may still be available. Where such a person,

like a close friend or neighbour (or their legal representative), provides a signed Form INS5223 (Compassionate Care Benefits Attestation), compassionate benefits may be made available.

Compassionate care benefits are, in addition, subject to the usual requirements applying to all special benefits, including sufficient earnings during the qualifying period, payment of EI premiums as required, and a two-week waiting period. Benefits are also calculated in the same way (55% of average weekly earnings during the qualifying period, to a maximum of \$514 per week).

It is often the case that several family members share in the care of a gravely ill relative. In such cases, the compassionate care benefit can be shared among them. Each family member can claim the benefits at any time during the 52-week period, either at the same time or at different times.

The following is an example of how your family could share compassionate care benefits between three family members:

- **You:** Your claim starts on January 4, 2016, and you ask for 2 weeks.
- **Your sister:** Her claim starts on January 18, 2016, and she asks for 20 weeks.
- **Your brother:** His claim starts on July 4, 2016, and he asks for 4 weeks.

Since you are the first to claim compassionate care benefits, you will serve the two week waiting period.

The waiting period and number of weeks payable for each family member are as follows:

- *You will serve the two-week waiting period from January 4 to January 17, 2016, and then you will receive 2 weeks of benefits, payable from January 18 to January 31, 2016.*
- *Your sister will serve no waiting period; she will receive 20 weeks of benefits, payable from January 18 to June 5, 2016.*
- *Your brother will serve no waiting period; he will receive 4 weeks of benefits, payable from July 4 to July 31, 2016.*

Finally, while a medical certificate indicating that the requirements for the compassionate care benefit are satisfied, in relation to the state of

health of the family member who is ill, there is no requirement for documentation of any kind when it comes to the care or support provided. The EI system recognizes that care or support of a gravely ill family member can take many forms and, for the purposes of the compassionate care benefit, that care or support can mean providing psychological or emotional support, arranging for care by a third party, or directly providing or participating in the care.

The second type of compassionate care benefits becomes available where a person's child is critically ill or injured, and that circumstance is certified by a specialist physician. The Parents of Critically Ill Children (PCIC) benefit is available for a maximum of 35 weeks.

The rules governing eligibility for the amount of the PCIC benefit are generally the same as those provided for other EI special benefits claims by the self-employed. A self-employed parent who has registered for EI and is claiming the PCIC benefit in 2016 must have earned at least \$6,680 in income for 2015 (and paid EI premiums in respect of that income), as well as have had reduced the amount of time devoted to their business by at least 40% in order to care for their critically ill or injured child. That child must be under the age of 18 when the claim is made.

The PCIC benefit can be claimed by either parent of a critically ill or injured child, or the benefit can be shared between them. However the benefit is allocated, the 35 week maximum benefit period applies. And, while the 35 weeks of benefits must be paid within a 52 week "window", it's not the case that those 35 weeks must run consecutively. Rather, the total claim period of 35 weeks can be divided into periods within that 52 week "window" at the option of the parent(s) claiming the benefit.

Having become available as of June 9, 2013, the PCIC is the newest of the EI special benefits. Consequently, even where a small business owner has opted into the EI system and become eligible for special benefits prior to that date, no PCIC benefits can be paid for weeks prior to June 9, 2013.

Canada Pension Plan disability benefits

Almost everyone is aware of the retirement benefit paid by the Canada Pension Plan to Canadian retirees. The fact that those who have contributed during their working lives to the Canada Pension Plan may also be eligible to receive a disability benefit is much less well known.

In this case, small business owners do not have to opt-in or register in order to be eligible for CPP disability benefits. Virtually all Canadian workers (employed or self-employed) over the age of 18 have contributed to the CPP, and can therefore receive different kinds of CPP benefits when they fulfill the particular eligibility criteria.

When it comes to the CPP disability benefit, the bar is set quite high. Essentially, an individual can receive CPP benefits when he or she is suffering from a disability which is both severe and prolonged, and prevents him or her from working any job (not just his or her former job) on a regular basis. And, as noted on the Service Canada website, the fact that a person might qualify for disability benefits under other government programs or private disability insurance plans does not guarantee that he or she will qualify for the CPP disability benefit.

In any case, in order to potentially qualify for the CPP disability benefit, a person must be under the



age of 65, must have stopped working because of his or her medical condition, and must have paid into the CPP system either for four of the last six years, or for a period of at least 25 years, including three of the past six years. While individuals who don't meet these requirements may still sometimes qualify for CPP disability benefits, such eligibility occurs only on an exception basis.

In order to obtain a CPP disability benefit, an application must be made, which can be done online at www.hrsdc.gc.ca/cgi-bin/search/eforms/index.cgi?app=profile&form=isp1151&lang=eng While decisions on most applications take about 4 months to

be made, priority treatment is accorded to applicants who are terminally ill (such applications can be processed within 48 hours).

Where an application for CPP disability benefits is approved, the monthly amount which may be received will vary by individual. The benefit includes a fixed amount of \$471.43 per month (for 2016) which everyone receives. Any additional amount payable will depend on the amount of CPP contributions made during the individual's working life. In any case, the maximum monthly benefit which may be received cannot be more than \$1,290.81 (for 2016). As is the case with EI benefits and other types of CPP benefits, all amounts received are taxable.

Quebec Pension Plan disability benefit

Virtually everyone who has worked in the province of Quebec, including small business owners, will have made contributions to the Quebec Pension Plan (QPP), which also provides disability benefits for those who qualify.

The rules governing eligibility for QPP disability benefits are very similar to those which apply for purposes of the CPP. In order to receive such a QPP disability benefit, an individual must have a severe and permanent disability (meaning that they are unable to do any type of work on a full-time basis), must be under the age of 65, and must have made sufficient contributions to the QPP.

For purposes of the QPP, "sufficient contributions" means that an individual has contributed for at least 2 of the last 3 years, for at least 5 of the last 10 years, and for at least half of the years in the particular individual's contributory period. That contributory period begins when the person turns 18 and ends at the end of the month during which he or she became disabled.

While the amount of any QPP disability benefit received will depend on the amount of contributions made, the maximum of such monthly benefit payable in 2016 is \$1,264.56.

Conclusion

It's apparent that any decision on whether to opt-in to the Employment Insurance system in order to become eligible for special benefits is a very individual one. In some cases, where it is virtually

certain that the small business owner will be able to take advantage of such benefits in the near term (as where a couple is planning to start a family forcing one or both parents to take time away from the business), then the decision is a relatively easy one.

In other cases, where it's not clear that any claim for such benefits will ever be made, small business owners may find it harder to justify taking the time to become registered and to incur the annual cost of premiums. And, of course, the circumstances in which most of such special benefits may be claimed (e.g., personal illness or injury, or serious illness within one's family) are not circumstances which anyone wants to contemplate.

However, that being said, obtaining insurance coverage through the EI system is undeniably cost-effective. As is the case with most "group" insurance plans, the premium cost per individual is quite low relative to the benefits, especially by comparison to the cost of obtaining similar coverage on an individual basis. For many small business owners, the payment of EI premiums of about \$1,000 per year could be viewed as "peace of mind" insurance, providing the knowledge that, where time must be taken away from the business for a personal or family medical crisis, at least some of the financial stress of that crisis will be alleviated.

