

December 11, 2020

The Honourable Chrystia Freeland  
Minister of Finance  
Sent via electronic copy to  
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The Honourable Carla Qualtrough  
Minister of Employment, Workforce  
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Sent via electronic copy to  
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The Honourable Diane Lebouthillier  
Minister of National Revenue  
Sent via electronic copy to  
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The Honourable Steven Guilbeault  
Minister of Canadian Heritage  
Sent via electronic copy to  
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Dear Ministers,

Re: Recent letters sent to Canadians with the subject: “Your eligibility for the Canada Emergency Response Benefit (CERB)” and the definition of self-employment income

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Together our associations represent over seventy-five thousand professional artists and arts workers across Canada. The COVID-19 pandemic has been devastating to our members’ income, and as the pandemic reaches into its 10<sup>th</sup> month, the financial, social, physical and mental wellbeing of our members is of great concern.

We are appreciative of the Federal Government’s leadership in supporting self-employed persons through the pandemic by implementing the Canada Emergency Response Benefit (the “CERB”) and the Canada Recovery Benefit (the “CRB”). These benefits have been, and continue to be, a lifeline for many of our members. We are writing today because hundreds of our members have received a letter from the Canada Revenue Agency (the “CRA”) stating the CRA cannot confirm the member’s eligibility for CERB amounts already received (the “Eligibility Letter”). As a whole, the Eligibility Letter is most easily understood as a request to repay all amounts received under the CERB.

**Above all, we ask that a public statement is released by the government on or prior to December 18, 2020 that the policies expressed in the Eligibility Letter are under review and a reminder that there are no penalties or interest owing for those who do not pay back amounts by December 31, 2020, regardless of the final determination of eligibility.**

In terms of assessment criteria and assessment method there is new information in the Eligibility Letter that by our records did not appear in:

- the Canada Emergency Response Benefit Act (the “Act”);
- any regulations related to the Act;
- the published “Questions and Answers” website that was the key source of eligibility information prior to applying for the CERB; or
- the original application process for the CERB.

The new information is as follows:

1. The Eligibility Letter, for the purposes of determining whether an applicant earned \$5,000 in 2019, indicates that this threshold must have been achieved net of related expenses instead of using gross self-employment income.
2. While the application for the CERB did indicate that CRA would use tax information to assess eligibility, it never indicated which specific tax information it would use. The Eligibility Letter seems to indicate that the 2019 tax return is being used to assess eligibility but does not state which line or lines from the tax return are being used to determine that the applicant did not have \$5,000 in self-employment income in 2019. Even if an applicant had not yet filed their 2019 return when applying for the CERB, this information would have helped the applicant understand eligibility at a much earlier point in the process.

Further, the Eligibility Letter has been sent in advance of the deadline for 2020 tax returns and as a result the CRA, in most cases, would not be able to determine self-employment income in 2020 solely from tax records. Our understanding is that self-employment income in 2020 may be used in combination with 2019 amounts to determine eligibility by using the alternative timeline of 12 months prior to application, in order to achieve the threshold of \$5,000 in self-employment income. Therefore, members who have determined they are eligible using this method may now mistakenly deem themselves ineligible. While the Eligibility Letter states the option to “disregard this letter” if one determines they meet the criteria, it is difficult for our members to feel comfortable disregarding any letter from the CRA calling into question their eligibility for a program from which they received upwards of \$14,000.

**We are asking you, on behalf of our members, to work with the CRA to consider the following steps to remedy the situation caused by the Eligibility Letter.**

- A. That the CRA revise its interpretation and allow gross self-employment income as reported on any or all of lines 13499, 13699, 13899, 14099, and 14299 on the 2019 tax return to stand as the test for eligibility when determining whether an applicant had \$5,000 in self-employment income in 2019.
- B. That the CRA provide a follow-up letter to all who received the Eligibility Letter notifying applicants of the revised interpretation.
- C. That even in cases where the applicant is not deemed eligible by the revised interpretation that the CRA clearly explain how an applicant may provide proof of \$5,000 in gross self-employment income in the 12 months prior to application in place of the 2019 tax return.

We understand that the steps above may take time to consider. To provide our members and other affected Canadians some peace of mind during this holiday season **we repeat the ask that a public statement is released by the government on or prior to December 18, 2020 that the policies expressed in the Eligibility Letter are under review and a reminder that there are no penalties or interest owing for those who do not pay back amounts by December 31, 2020, regardless of the final determination of eligibility.**

Many artists and arts workers average their income from one year to the next, and the good years offset the bad ones. While some aspects of the culture sector are slowly recovering, there are still significantly fewer opportunities available to artists and arts workers at this time, making it even more challenging for people to pay back money for which they thought they were eligible. We believe it is unacceptable to penalize applicants for this ambiguity, especially given the precarious position many people find themselves in due to ongoing closures and loss of work opportunities.

We hope we can count on the Government of Canada to continue to be there for cultural workers by making this adjustment, which will no doubt have a positive impact on the livelihoods of the thousands of workers who belong to Canada's creative community.

Sincerely,

**ACTRA**

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The Honourable Patricia Bovey, Senator ([Patricia.Bovey@sen.parl.gc.ca](mailto:Patricia.Bovey@sen.parl.gc.ca))

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