

**1. Clarification on whether severance pay is included in the net income calculation for Employment Insurance (EI) repayments (Clawback)?**

The following clarifies how severance pay is treated for EI purposes as compared to how it is treated under income tax rules. There appears to have been some confusion, which is understandable, and it is hoped that the following explanation will help distinguish between the two processes.

- Under Pilot Project No. 24, severance payments are excluded from EI allocation rules. This means they do not delay or reduce EI benefits.
- According to the Canada Revenue Agency (CRA) [Retiring allowances - Canada.ca](#), severance pay is fully taxable under federal income tax legislation and must be included in an individual's annual net income.

Since EI repayment requirements are determined by the CRA based on total net income, severance may still affect whether an EI repayment is owed at tax filing time even though it is not considered when calculating EI benefits.

Please note that the above reflects general guidance and only the CRA can provide definitive advice on how net income is calculated for your specific tax situation. For detailed or personalized information, we recommend contacting the CRA directly.

**2. How will the employer code the reason for separation on the ROE if an employee request severance at the start of the lay-off as they already know they will not be called back since they are lower on the seniority list?**

If an employee chooses to take their severance pay and applies for or is on a claim for employment insurance benefits, the claim will be reviewed at that time to determine if there is any impact. This review will be prompted when the employer amends the ROE to reflect the severance payments, or when the client notifies us that they have relinquished their recall rights and will be receiving severance pay. The date of the separation will be the date they relinquish their recall rights. It must be noted that detailed fact-finding will be completed and each case must be examined on its own merits.

Whether an employee's decision to relinquish their recall rights and take severance pay will have an impact on their claim is dependent on whether the employee has received a notice of recall or knew that there was a genuine chance of recall. The recall date does not have to be known. If that is the case, the employee's reasons for leaving would be reviewed, and a determination of whether the client had just cause for leaving their employment would be made. If it is determined the employee did not have just cause for leaving, a disqualification would be applicable from the date the employment would have resumed. This would only

impact the employee if they are still in receipt of employment insurance benefits at the time they would have resumed the employment. If they have no expectation of being recalled (there is no job to return to), then a decision to take severance pay and abandon recall rights would not be considered voluntary leaving and there would be no impact to their claim. For additional information, please see

[Digest of Benefit Entitlement Principles - Chapter 6 - Section 3 - Canada.ca.](#)

In cases where the employer has implemented a Work Force Reduction program that meets the specific criteria of EI Regulation 51, the client is part of the group covered by the process and agrees to leave under the program to preserve the employment of a co-workers job, the client may be able to receive EI benefits if they meet eligibility and entitlement conditions. For additional information on Workforce Reduction, see: [Work force reduction program due to downsizing - Canada.ca](#)