



Regulation 102 Waiver Application

Is this form for you?

Use this form if you are a non-resident employee providing employment services in Canada, and you want to apply for a waiver of the tax required to be deducted from the remuneration that will be paid to you because it is exempt from tax in Canada pursuant to a tax treaty between Canada and the country where you live.

If you will be providing services through a personal services corporation, complete this form for the payment(s) you will receive from the personal services corporation. You will also need to complete Form R105, *Regulation 105 Waiver Application* for the payment(s) made from the payer to the personal services corporation.

If you are a resident of:

- the United States and are expected to earn no more than CAN \$10,000; or
- another country that has a tax treaty with Canada and are expected to earn no more than CAN \$5,000;

you and your employer may be eligible to apply for a joint employer/employee Regulation 102 waiver on withholding using Form R102-J, *Regulation 102 Waiver Application – Joint Employer/Employee* instead. For more information, go to <http://www.cra-arc.gc.ca/tx/nnrdsnts/cmmn/rndr/wthhldng-eng.html>.

Payer withholding and remitting requirements

In accordance with Section 102 of the Income Tax Regulations (Regulation 102) payments made to non-residents who provide employment services in Canada are subject to the same withholding, remitting, and reporting obligations as those for Canadian resident employees. Therefore, any person who pays another person salary, wages, or other remuneration in respect of an office or employment in Canada is required to withhold, remit, and report these amounts to the Canada Revenue Agency (CRA). This obligation also extends to non-residents of Canada employing either resident or non-resident employees for services performed in Canada.

Employers are required to withhold and remit withholding tax for each of their employees unless a waiver of withholding tax has been issued. Employers are also required to withhold and remit Canada Pension Plan contributions (CPP) and Employment Insurance Premiums (EI) for each of their employees unless otherwise exempted. An exemption of CPP may be available based on a reciprocal agreement on social security between Canada and the employee's home country. An exemption for EI may be available if the unemployment laws of the employee's home country require payment of premiums on the same employment income. Employers who fail to withhold and remit these required amounts without authorization from the CRA may be held liable for the whole amount with interest and penalties.

Waivers of withholding

Non-resident employees who provide employment services in Canada may be eligible to apply for a waiver of withholding of the normal withholding amounts from the CRA if their country of residence has a tax treaty with Canada that exempts them from tax in Canada. If the application is approved, the CRA will authorize the respective payer(s) to not withhold. The non-resident applicant, any person properly authorized and the respective payer(s) will receive written information from the CRA of the result of the waiver application.

How and where to apply

Complete and sign Form R102-R, *Regulation 102 Waiver Application*, and attach the appropriate identification and supporting documents, if required. If you are claiming a treaty exemption for remuneration to be paid by a non-resident employer and the amount is not borne by a permanent establishment of the non-resident employer in Canada, you must attach a written attestation to this effect from your employer, or arrange for this attestation to be provided directly by your employer to the CRA office processing this waiver application.

If you do not have a Social Insurance Number (SIN) and you have a work permit, you must apply for a SIN from Service Canada. For more information about obtaining a SIN, call Service Canada toll-free at **1-800-206-7218** and select option "3" for SIN information. If you are calling from outside Canada, or if you have a rotary dial telephone, call **506-548-7961** (long distance charges will apply). You may also visit their Web site at: www.serviccanada.gc.ca.

If you do not have a SIN or an Individual Tax Number (ITN), you can apply for an ITN by completing Form T1261, *Application for a Canada Revenue Agency Individual Tax Number (ITN) for Non-Residents*, which is available on our website at: www.cra.gc.ca.

You must submit Form R102-R and any additional documentation including, if applicable, Form T1261 (and its required documentation) to the CRA tax services office (TSO) that serves the area where your employment services will be provided 30 days before either the start of the employment services in Canada or the initial payment. The TSO will make every effort to process properly documented waiver applications in situations where they are received less than 30 days prior to payment or the date employment services start.

Your payer will also provide you with a T4 Statement of Remuneration paid reporting the amounts paid to you before the end of February of the following year.

Conditions

An approved waiver of withholding on amounts subject to Regulation 102 does not affect the requirement of a non-resident providing employment services in Canada to file a Canadian income tax return. For more information, see Guide 5013-G, *General Income Tax and Benefit Guide for Non-Residents and Deemed Residents of Canada*, available on the CRA Web site at: www.cra.gc.ca.

Failure to fulfill your tax filing requirements may result in future waiver requests being denied.

If the information presented in this waiver application changes for any reason, you must inform the CRA immediately. Failure to do so may result in the waiver request being rescinded and the withholding requirement reinstated.

AUTHORIZING A REPRESENTATIVE

Complete this section to authorize the Canada Revenue Agency (CRA) to deal with another person (such as your payer, payroll company, accountant or agent) as your representative for matters **pertaining to this waiver**.

Note: If you wish to authorize a representative to deal with the CRA for your other tax matters, please complete Form T1013, *Authorizing or Cancelling a Representative*, which can be found on our website at www.cra.gc.ca under Forms and Publications.

PLEASE PRINT

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| Name of representative | | | | | | | | | |
| Address of representative | | | | | | | | | |
| Name of non-resident applicant | | | | | | | | | |
| Address of non-resident applicant | | | Telephone number | | | | | | |
| Non-resident applicant's signature | | | <table border="1"> <tr> <td>Year</td> <td>Month</td> <td>Day</td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </table> | Year | Month | Day | | | |
| Year | Month | Day | | | | | | | |
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DECLARATION BY A NON-RESIDENT WAIVER APPLICANT

Certification

I, _____, hereby declare that I am a
(print legal name)
 resident of _____ and that I am entitled to the benefits of the tax treaty
(country)
 between Canada and my country of residence, as indicated, for income tax purposes.

I certify that the information and supporting documentation provided with this application is true and correct and that I will fulfill my Canadian income tax return filing obligations. I understand that failure to fulfill these requirements may result in future waiver requests being denied.

I consent to the Canada Revenue Agency providing a copy of the waiver approval/denial letter, which includes my Individual Tax Number or Social Insurance Number, to the payer(s)/payroll company noted in my application.

I undertake to provide to the Canada Revenue Agency documentation as may be necessary to substantiate the information I have provided in my waiver application.

I understand that I must inform the Canada Revenue Agency immediately of any changes to the information presented in my waiver application. Failure to do so may result in my waiver request being denied or rescinded and my payer required to withhold accordingly.

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|-------------------------------------|----------|------|-------|-----|
| Signature of non-resident applicant | Position | Date | | |
| | | Year | Month | Day |
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