

REGULATION 105 WAIVER APPLICATION

Instructions

Use this form if you are a non-resident self-employed individual or corporation and want to apply for a reduced amount of *Regulation 105* withholding tax from amounts paid to you for services provided in Canada. If you perform services that relate to the film industry, use form R107, *Regulation 105 Waiver Application – Film Industry*, which is available on our Web site at: www.cra.gc.ca or at any tax services office.

Attach a copy of all relevant contracts to this application.

Section I – Applicant identification

1. Is this the applicant's first application in Canada?
 No Yes

2. Check one of the boxes to indicate the applicant type contracted to provide services in Canada for the current contract.
 Individual Unincorporated group Partnership Corporation Joint venture Limited liability company (LLC)
 Other (specify) _____

3. Legal name and address of the individual or contracted entity providing services in Canada (if an unincorporated musical group, state the group's name):

Name	Date of birth
Address	Telephone no.

4. Professional or operating name of the applicant, if different than the legal name noted in No. 3 above: _____

5. Applicant's social security number or similar government-issued tax number from his or her country of residence: _____

6. Individual, corporation, or business account number(s) provided previously by the Canada Revenue Agency (CRA): _____

7. If this application is being made by someone other than the applicant contracted for services, provide the following:

Name	Telephone no.	Fax no.
Address		

8. Has this person been authorized by the applicant to discuss the applicant's tax affairs in Canada? If yes, attach a copy of the letter of authority.
 No Yes

9. If the applicant is an unincorporated group, a corporation or a joint venture, complete the following chart. If you need more space, attach a separate page. A partnership or hybrid entity, such as an LLC, that has elected to be taxed as a corporation on its worldwide income under the laws of another country also completes this chart. Partnerships or hybrid entities that are taxed on their worldwide income under the laws of a foreign country on a flow-through basis, complete and attach Form NR302 or Form NR303 as applicable instead.

Names of individual group members, joint venture members, shareholders or partners. Also indicate their foreign social security number and their Canadian individual tax number or Canadian social insurance number.	Position or title	Address and country of residence	Percentage of voting shares, allocation, income or profit/loss, whichever is applicable	Date of birth
				YYYY MM DD
				YYYY MM DD
				YYYY MM DD
				YYYY MM DD
				YYYY MM DD
				YYYY MM DD
				YYYY MM DD

10. Type of industry in which the applicant's services will be provided:

Entertainment Sport/Recreation Construction Petroleum and gas Transportation Communications
 Business professionals Education Architectural/Engineering/Scientific/Technical Health Other (specify) _____

11. If services are to be provided in the entertainment industry, indicate in which of the following areas.

Theatre production Music Speaker/Lecturer Other (specify) _____

Section II – Current service information

12. Are the payer(s) and applicant dealing at arm's-length with one another (i.e. they are not related)?

No Yes

13. Total fees and currency guaranteed to be paid to the applicant as per the current contract – do not include amounts paid to third parties on the applicant's behalf or amount reimbursed to the applicant by the respective payer(s):

14. Could the applicant potentially receive additional fees/amounts related to this contract (e.g., bonus, sponsorship/promotional income, or amounts based on ticket sales)?

No Yes (specify) ▶ _____

Amount Currency Reason

15. Indicate any amounts and the currency to be reimbursed by the payer to the applicant or to be paid by the payer to a third party on the applicant's behalf.

None Transportation \$ _____ Accommodation \$ _____

Meals/Per diems \$ _____ Other (specify) \$ _____ and _____

Amount Item

16. If the applicant will be bringing equipment to Canada that has been rented outside of Canada, indicate the type of equipment (e.g., sound or lighting, kit rental for hair or make-up, or other rented equipment for drilling, ships, or aircraft).

Not Applicable _____

Equipment Rental amount paid Currency Country of residence of the owner of the equipment

17. Applicant's date of arrival in and departure from Canada:

Arrival date YYYY MM DD Departure date YYYY MM DD

|_|_|_| |_| |_| |_| |_|_|_| |_| |_| |_|

18. If the applicant will be spending five or more consecutive days outside of Canada during the period noted in No. 17, indicate:

Reason for leaving Canada Days spent outside Canada Actual Dates (YYYY-MM-DD)

19. Is there a possibility this contract will be renewed or extended beyond its current length?

No Yes (explain) _____

Under what conditions Dates of extension(s) (YYYY-MM-DD)

20. Indicate any person(s) the applicant will be paying for services rendered to the applicant in Canada and provide the amount(s) to be paid:

Applicant will not be paying any other person(s) for services rendered in Canada.

Legal name, address, and country of residence	Employee or sub-contractor	Amount to be paid and currency

21. Complete the following chart for the current contract(s) information (attach a separate page if you need more space).

Dates of service (YYYY-MM-DD) from	Dates of service (YYYY-MM-DD) to	City and province/territory of service	Payer name and address	Amount of fee and the currency

Section III – Previous and future service information

22. Has the applicant provided services in Canada:
 a) previously this calendar year? No Yes (complete No. 23 below) b) in the previous three calendar years? No Yes (complete No. 23 below)

23. If yes to either No. 22 a) or b), complete the following chart (attach a separate page if you need more space).

Dates of previous service (YYYY-MM-DD) from	Dates of previous service (YYYY-MM-DD) to	Waiver applied for? If no complete I to IV	<i>I</i> Payer name and address	<i>II</i> Fee received and the currency	<i>III</i> Amount of tax withheld; if tax was not withheld, enter "0"	<i>IV</i> Consecutive days spent outside Canada during this contract
		<input type="checkbox"/> Yes <input type="checkbox"/> No				
		<input type="checkbox"/> Yes <input type="checkbox"/> No				
		<input type="checkbox"/> Yes <input type="checkbox"/> No				
		<input type="checkbox"/> Yes <input type="checkbox"/> No				

24. If there is a written agreement for the applicant to provide services in Canada later in the current calendar year or within the next three calendar years, complete the following chart (attach a separate page if you need more space).

Dates of future service (YYYY-MM-DD) from	Dates of future service (YYYY-MM-DD) to	City and province/territory of service	Payer name and address	Amount of fee and the currency

25. Declaration of country of residence and entitlement to tax treaty benefits

Each individual or corporation that is applying for a tax treaty exemption in this application has to complete the applicable declaration below. Attach separate sheets if needed.

Partnerships or hybrid entities that are taxed on their worldwide income under the laws of a foreign country on a flow-through basis must complete and attach Form NR302 or Form NR303 (or an equivalent), as applicable instead.

For **corporations**, or for **partnerships** or **other entities** that have elected to be taxed as a corporation on worldwide income under the laws of another country:

I, _____ hereby declare that _____ is a resident of _____ under the tax treaty between Canada and that country. I further state that if there are provisions in the treaty that limit the application of tax treaty benefits (e.g. Article XXIX-A Limitation on Benefits, Canada – US tax treaty), the corporation or income meets the conditions of the provision in the treaty and is eligible for tax treaty benefits.

 Signature of non-resident taxpayer or authorized person Name of authorized person (print) Position/title of authorized person Date (YYYY/MM/DD)

For individuals:

I, _____ hereby declare that I am a resident of _____ under the tax treaty between Canada and that country. I further state that if there are provisions in the treaty that limit the application of tax treaty benefits (e.g. Article XXIX-A Limitation on Benefits, Canada – US tax treaty), I meet the conditions of the provision in the treaty or the income meets the conditions of the provision in the treaty and I am eligible for tax treaty benefits.

 Signature of non-resident taxpayer Name of non-resident taxpayer (print) Date (YYYY/MM/DD)

26. Certification

Each non-resident person (individual or corporation) providing services in Canada and requesting a waiver of the withholding required on payments to be made to them, must complete and sign this section. Attach separate sheets if needed. An authorized partner can make this application on behalf of the members of the partnership and sign on their behalf.

I, (print) _____, certify that the information and supporting documentation provided with this application are true and correct and that I will meet the Canadian income tax return filing requirements as well as my withholding, remitting and reporting requirements. I understand that failure to fulfill these requirements may result in future waiver requests being denied. I consent to the Canada Revenue Agency (CRA) providing a copy of the waiver application approval/denial letter, which includes my Canadian tax identification number, to the payer noted in my application. I understand that I must inform CRA immediately of any changes to the information presented in my waiver application.

 Signature of non-resident taxpayer or authorized person Name of authorized person (print) Position/title of authorized person Date (YYYY/MM/DD)

The information you provide on this form is collected under the authority of the *Income Tax Act* (ITA) and is protected by the provisions of the *Privacy Act*. It is used to process requests for the application of Subsection 153(1.1) of the ITA and is retained in information bank number CRA-PPU 098.

Instructions for the Regulation 105 Waiver Application

Payer withholding and reporting requirements

Regulation 105 of the *Income Tax Act* requires every person (whether resident or non-resident in Canada) who pays a non-resident person (individual, corporation, partnership, joint venture, hybrid entity such as a limited liability company or other) a fee, commission, or other amount for services (of a non-employment nature) rendered in Canada, to deduct and withhold 15% tax from such a payment. Payers are generally required to remit the tax to the Canada Revenue Agency (CRA) by the 15th of the month following the month in which they paid the non-resident. Payers who fail to withhold without authorization from the CRA may be assessed tax, penalty, and interest. Payers are required to complete a T4A-NR, *Statement of fees, commissions, or other amounts paid to non-residents for services rendered in Canada*, information slip for each non-resident person they pay and to provide each payee with the appropriate slip copies. Payers must file all slips together with one T4A-NR *Summary* form with the CRA. For more detailed information on preparing these forms, see our publication RC4445, *T4A-NR Payments To Non-Residents for Services Provided in Canada*.

Waivers on withholding

Non-residents of Canada who feel that the withholding tax is more than their actual tax liability to Canada may apply to have the tax waived or reduced. If the application is approved, the CRA will authorize the respective payer(s) to not withhold or to withhold at a reduced rate. The non-resident **applicant** and **any person properly authorized** or the respective payer(s) will receive written information from the CRA of the result of the waiver application.

Who may apply for a waiver

- Non-resident persons (i.e. an individual, corporation, partnership, joint venture or hybrid entity such as a limited liability company) who will be providing services (of a non-employment nature) in Canada.
- United States artistes and athletes providing services in Canada who will earn less than \$15,000 (in Canadian currency) for the whole current year, including reimbursable expenses or expenses paid on their behalf.
- Non-U.S. artists and athletes who will be providing services in Canada.
- Non-resident applying for a waiver on their statement of income and expenses. All income and expense claims must be supported by proper document.

How and where to apply

Complete Form R105, *Regulation 105 Waiver Application*, and mail or fax it, along with the necessary supporting documentation – as identified on the final page of these instructions – to the CRA tax services office that serves the area where the applicant's services will be provided. Our TSOs and their telephone numbers are listed on the CRA's Web site at: www.cra.gc.ca.

Applications should normally be received by the applicable TSO 30 days before the start of the applicant's services in Canada or 30 days before the first payment to the applicant for those services. Applications received outside of this time frame may also be reviewed.

Note

A waiver is not a final determination of a non-resident's tax liability to Canada. This is determined once the non-resident's Canadian income tax return has been assessed.

How to complete form R105, Regulation 105 Waiver Application

The following instructions are numbered in relation to the questions as they appear on the Form R105. Note that some questions are self-explanatory and do not have instructions.

Section I – Applicant identification area

2. Check the applicable box to indicate the type of applicant who will be providing services in Canada under the current contract. This will help determine which particular article of a tax treaty may be applied if an exemption from tax is determined. For example: a personal services corporation or a "star" corporation is often found in the entertainment and sports industries and utilized by individuals who provide their services through these types of corporations.
3. If the applicant is an individual, provide his or her legal name from the birth certificate. If the entity is an unincorporated musical group or a partnership, provide the name of the group or partnership.
4. If the applicant is an individual who uses and is identified by a professional or stage name other than his or her legal name, provide this name.
5. If the applicant is an individual, provide the government-issued identification or tax number from his or her country of residence. For U.S. resident individuals, provide the social security number. If the applicant is not an individual, complete question No. 9 on the application instead.
6. Indicate any business number or similar identifier that the CRA may have issued previously to the applicant. For example, the applicant may have received a temporary tax number (TTN) or and individual tax number (ITN) if he or she previously filed a Canadian income tax return or received a waiver.

If the applicant is an individual and does not have a social insurance number (SIN) or an ITN, the applicant must complete form T1261, *Application for a Canada Revenue Agency Individual Tax Number (ITN) for Non-Residents*. Attach certified or notarized copies of documentation that include your name, photograph and date of birth. Local officials such as doctors, accountants, lawyers, teachers or officials in a federal department or a provincial ministry can certify documents. Any combination of the following would be acceptable: a valid passport, a work permit, a driver's license, a birth certificate, or a visitor record. If the applicant is a corporation and does not have a business number, the applicant must complete form RC1, *Request for a Business Number (BN)*. These forms are available on our Web site at www.cra.gc.ca.

You can also apply for an ITN or BN before coming to Canada by submitting these forms and supporting documents directly to CRA.

8. If the "yes" box is checked, provide documentation to support that the person has power of attorney or expressed written authorization to discuss the applicant's waiver application and/or his or her tax affairs with the CRA.
9. Complete the chart detailing the names of all members of an unincorporated group or joint venture or the shareholders of the corporation. A partnership or hybrid entity such as an LLC that has elected to be taxed as a corporation on its worldwide income under the laws of another country must also complete this chart. Provide social security or similar government-issued identification numbers, Canadian social insurance

numbers, Canadian individual tax numbers or Canadian business numbers. Provide titles, addresses and countries of residence. Also, please provide the percentages according to which income or profits/losses will be allocated between the members based on any agreement between the members or partners. For a corporation, provide the percentage allocation of voting shares between shareholders. Partnerships or hybrid entities that are taxed on their worldwide income under the laws of a foreign country on a flow-through basis must complete and attach Form NR302 or Form NR303 as applicable instead.

Section II – Current service information

12. Indicate if the payer and the applicant are dealing at "arm's length" with one another. Parties are usually considered to be operating at arm's length if they are not related to each other.
13. Enter the amount guaranteed by contract to be paid to the applicant for the current services to be performed in Canada. Do not include amounts referred to in question No. 14 or No. 15.
14. If it is possible that the applicant will receive an amount in addition to the amount guaranteed by contract, state the amount and the reason why an additional amount may be paid. Such amount could be in respect of an overage provision in a contract; i.e. a payment based on achieving higher ticket sales for a concert versus the guaranteed sales level. An overage provision also includes contracts where a bonus provision exists.
15. If a payer will be reimbursing an applicant for transportation, accommodation, meals, or incidental expenses, or paying a third party directly for these expenses incurred by the applicant, indicate which types of expenses are being paid and their amounts.
16. Indicate the type of any equipment, rented outside of Canada, for use in Canada. Provide the cost of the rental and the country of residence of the owner of the equipment.
17. An applicant may be in Canada before or after the dates of service outlined in his or her contract. State the actual date of the applicant's expected arrival in Canada, and his or her expected date of departure from Canada.
18. Indicate why the applicant will leave Canada during the period indicated in question No. 17. Provide the number of consecutive days to be spent outside of Canada during the contract and the actual dates.
20. If the applicant will be paying any person for services provided to, or on behalf of, the applicant in Canada, please provide the name and address of that person, **indicate whether that person is an employee or a sub-contractor**, and provide the amount to be paid to that person.

Declaration

25. The applicant has to complete this section if they are applying for a waiver because the provisions of a tax treaty provide an exemption from tax on their income. If the applicant is an unincorporated group or joint venture, each member must provide a similar signed declaration. Attach a separate sheet if needed.

Partnerships or hybrid entities that are taxed on their worldwide income under the laws of a foreign country on a flow-through basis, complete and attach Form NR302 or Form NR303 as applicable instead. Note that the information on Form NR302 or NR303 must be up to date and accurate for the period during which services will be performed. If the applicant is applying for a waiver based on their statement of income and expense directly related to their services to be provided in Canada, they do not need to complete this section.

The declaration area should be completed and signed by:

- the non-resident taxpayer in the case of an individual;
- an authorized officer in the case of a corporation;
- an authorized partner in the case of a partnership.

26. Print your name and sign and date the form. A person other than the applicant may sign this application only if that person has been authorized by the applicant to communicate with the CRA with respect to his or her waiver request or Canadian tax affairs. **The applicant must provide the CRA with a letter of authority for anyone acting on his or her behalf.**

Documents to submit with a completed form R105

Contracts and sub-contracts

- A signed and complete copy of the most current service contract documenting the parties to the agreement (names and addresses), the dates and place(s) of services, the amounts to be paid and to whom, the schedule of payments, an outline of the work to be done and by whom. The contract must include the conditions under which the contract can be either voided or extended by one or both parties.
- Full disclosure and signed, complete copies of all sub-contracts and rental agreements between the applicant and any other person providing services in Canada, either to the applicant or on behalf of the applicant. "Any other person" includes other self-employed resident or non-resident sub-contractors, or the applicant's resident or non-resident employees.
- Settlement sheets (if applicable) for previous services provided in Canada within the previous three calendar years.
- Agreements documenting future services to be provided in Canada.

Identification information

- Provide members of an unincorporated group or a partnership: A copy of the group or partnership agreement (if applicable) outlining how income and profits/losses are distributed or allocated between the members.
- Joint venture or limited liability company (LLC): Copies of their joint venture agreements or LLC membership agreement. In addition, LLCs electing to be treated as a corporation in the U.S. must provide a copy of their most recently assessed U.S. tax return and/or a letter from the IRS confirming the LLCs election and "start date" to be considered resident in the U.S.
- Corporations: A copy of the articles of incorporation and any documents substantiating any name or other changes subsequent to incorporation. In addition, we may request documented proof of shareholders and officers and any voting shares they may hold.

- If the identification documents submitted with your request for a ITN or BN do not support your claim that you are a resident of the country indicated on this form or you already have an ITN or BN and your address on file with CRA is in a different country than your address on this application, attach proof of your country of residence such as a health card, certification of residence, or government issued identification.
- Provide copies of all Canadian work visas.
- Provide the letter of authority or power of attorney authorization for the representative.

Number of consecutive days outside of Canada

- If the applicant will be spending five or more consecutive days outside of Canada during the current contract period, documentation maybe required to validate the absences.