

Regulation 105 Waiver Application – Film Industry

Instructions

Use this form if you are a non-resident self-employed individual or corporation performing services that relate to the film and television industry and want to apply for a reduced amount of *Regulation 105* withholding tax from amounts paid to you for services provided in Canada.

Attach a copy of all relevant contracts to this application.

Section I – Applicant identification

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

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

3. The applicant will provide services in Canada under this current contract as a:

Individual
 Corporation
 Joint venture
 Partnership
 Limited Liability Corporation (LLC)
 Other (specify) _____

4. Legal name and address of the independent individual or entity contracted to provide services in Canada.

Legal name	Telephone number
Address	Date of birth

5. Professional or operating name, if different than legal name noted in question 4 above.

6. Applicant's social security number or similar government-issued tax number from country of residence.

7. If this application has been completed by someone other than the applicant, provide the following:

Name	Telephone number	Fax number
Address	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.	

8. If the applicant is a corporation, partnership, joint venture, or a LLC, complete the following chart (attach a separate page if needed):

Names of individual group members, joint venture members, shareholders or partners. Also indicate their foreign social security number and their Canadian ITN or SIN.	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

9. 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 type of currency

10. If the applicant is a corporation, please indicate its fiscal year end: yyyy mm dd

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11. Services will be provided in what type of film or digitally recorded visual entertainment? (Check one)

Feature film Movie of the week Television series Commercial

Other (specify) _____

12. Indicate the type of services the applicant will provide in Canada.

Director Assistant director Producer Director of photography

Set designer Artistic director Make-up/hair stylist Costume designer

Sound technician Lighting technician Electrical technician Location manager

Camera operator Photographer Production accountant

Other (specify) _____

Section II – Payer information

13. What is the title of the Canadian production?

14. Provide the following information about the **payer**. This is the entity responsible for paying the applicant; e.g., the production company. This is generally a Canadian production company but may be a foreign production company. (A payroll company, if used, would not be entered here. See question 15 below.) The payer must have a BN, under which it would remit the tax withheld.

Payer's name	Address	Canadian Business Number (BN)	Contact person	Telephone number	Fax number

15. Provide the following information about the **payroll company** (if different from the payer). The payroll company may be contracted by the production company to make payments and withhold and remit tax on its behalf. The payroll company must have a BN, under which it would remit the tax withheld.

Name	Address	Canadian Business Number (BN)	Contact person	Telephone number	Fax number

16. Provide the following information about the **production company** (if different from the payer). This is generally a Canadian production company, but may be a foreign production company. The production company must have a BN as they are carrying on business in Canada and are required to file a T2 corporation income tax return.

Name	Address	Canadian Business Number (BN)	Contact person	Telephone number	Fax number

17. Provide the following information about the **production studio/locations**. This may be an actual production studio as well as other locations. There may be multiple locations.

Name	Address	Canadian Business Number (BN)	Contact person	Telephone number	Fax number

18. Provide the following information about the **foreign parent company**. (If different from the payer)

Name	Address	Canadian Business Number (BN)	Contact person	Telephone number	Fax number

19. Does the applicant have a long-term service contract with the (Canadian) production company or its foreign parent (e.g. major studio)?

Yes No

If yes, explain the nature of the service contract with this production company or its foreign parent.

20. Is the applicant's contract for this project related to any previous or future contracts in Canada with this production company or major studio?

Yes No

If yes, provide the waiver applicant's relationship to the projects for which services were or are to be provided.

21. Are the payer(s) and the applicant dealing at arm's-length with one another?

Yes No

Section III – Current service information

22. Applicant's date of arrival in Canada:

yy	yy	mm	dd				

 Applicant's date of departure from Canada:

yy	yy	mm	dd				

23. Will the applicant be spending five or more consecutive days outside of Canada during the period noted in question 22?

Yes No

If yes, provide the following information and written confirmation from the payer or production company:

Reason for leaving Canada: _____

Dates spent outside Canada: from:

yy	yy	mm	dd				

 to:

yy	yy	mm	dd				

24. Will this contract be renewed or extended beyond its current length?

Yes (explain) No

Under what conditions would it be renewed or extended?

Estimated length of extension:

34. 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 treated as fiscally transparent (flow-through entity) under the laws of a foreign country, resulting in the partners or members paying tax on the income, must complete and attach Form NR302 or NR303 (or an equivalent declaration), as applicable.

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)
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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)
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35. 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)
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Instructions for the Form R107 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 film industry waiver

- Non-resident persons (i.e., an individual, corporation, partnership, joint venture or hybrid entity such as a limited liability corporation) who will be providing services of a non-employment nature in the film and television industry in Canada.
- This form can be used to apply for a waiver based on treaty exemption or on your expenses that are directly related to the services you will provide in Canada.
- Employees providing behind-the-scenes employment services in the film and television industry in Canada who want to apply for a reduction in the amount of Regulation 102 withholding tax should use Form R106, *Regulation 102 Waiver Application – Film Industry*.
- If you will be providing services through a loan-out corporation, complete this form for the payment(s) made from the production company to the loan-out corporation, and Form R106, *Regulation 102 Waiver Application – Film Industry*, for the payment(s) you will receive from the loan-out corporation.

How and where to apply

Please complete and mail or fax this application along with the necessary supporting documentation (as outlined below) to one of the CRA tax services office (TSO) listed below.

For services performed in British Columbia, Alberta, Saskatchewan, and Manitoba:

Vancouver Tax Services Office Section 1227-442-30, CEW-04 9755 King George Boulevard Surrey, BC V3T 5E1	Client Enquiries: Tel: 604-775-7918 Fax: 604-666-9670
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For services performed in Ontario, Nunavut, the Northwest Territories, and the Yukon Territory:

Toronto Centre Tax Services Office 1 Front Street West Toronto, ON M5J 2X6	Client Enquiries: Tel: 416-954-4791 or 416-954-4792 Fax: 416-954-8528
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For services performed in Quebec, Prince Edward Island, Nova Scotia, New Brunswick, and Newfoundland and Labrador:

Montréal Tax Services Office 305 René Lévesque Blvd. West Montréal, QC H2Z 1A6	Client Enquiries: Tel: 514-283-0512 Fax: 514-496-4574
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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 R107, Regulation 105 Waiver Application – Film Industry

The following instructions are numbered in relation to the questions as they appear on the Form R107. Note that some questions are self-explanatory and do not have instructions.

Section I – Applicant identification

2. 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 an 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.

3. 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 industry and utilized by individuals who provide their services through these types of corporations.
4. If the applicant is an individual, provide his or her legal name from the birth certificate. If the entity is an unincorporated group or a partnership, provide the name of the group or partnership.
5. 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.
6. 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 8 on the application instead of this question.

7. 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 relating to this application with the CRA.
8. Complete the chart detailing the names of all members of a 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 NR303, as applicable, instead.
9. 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.

Section II – Payer information

14. to 18. If the entities referred to in questions 14 to 18 do not wish to release their business number (BN) to the applicant or the representative, due to confidentiality concerns, the TSO reviewing the waiver application will contact the entity to obtain the BN.
21. 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.

Section III – Current service information

22. 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.
23. Indicate why the applicant will leave Canada during the period indicated in question 22. Provide the number of consecutive days to be spent outside of Canada during the contract and the actual dates.
25. 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 paid to third parties on the applicant's behalf or amounts reimbursed by the payer to the applicant.
27. 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 residuals, participations, overages, and promotional income.
29. 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.
30. 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.
34. 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 treated as fiscally transparent (flow-through entity) under the laws of a foreign country, resulting in the partners or members paying tax on the income, must complete and attach Form NR302 or NR303 (or an equivalent declaration), as applicable.

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.

35. 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 R107

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 date(s) 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.