



# Canada Tax Briefing

2022



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# Contents

## Canada - Determining residency

Taxation based on residency status and types of residency 03

Residency rules and determining residency 04

Tax Resident 05

Tax Non-Resident 06

## Departing Canada and Departure Tax Specifics

Capital gains departure tax (non-resident considerations) 07

Selling Canadian Real Property as a Non-Resident 08

Rental of a Canadian Real Property as a Non-Resident 09

Ongoing tax obligations upon exiting Canada 10

Action steps before you leave Canada 11

## Arriving Canada Tax Specifics

Capital gains in Canada (arrival implications) 12

Canadian investment account options available upon arrival 13

Common tax credits and deductions available in Canada 14

Other reporting obligations upon arriving in Canada 15

Timeline of your tax return process: 2021 16

Information to be provided during tax return process 17

# Taxation based on residency status and types of residency

## An individual taxpayer's liability in Canada is dependent on their residency status in Canada

- Resident - taxed on worldwide income
- Non-resident - taxed on specified sources of Canadian income only
- Part-year arriving and part-year departing residents:
  - Taxed on worldwide income for the part of the tax year that you were a resident of Canada,
  - Taxed on your Canadian source income for part of the tax year that you were not a resident of Canada

# Residency rules and determining residency

An individual's residence status in Canada is a question of fact. Under Canadian domestic law, the Canada Revenue Agency ("CRA") considers the following factors in determining whether you will remain or become a resident of Canada for tax purposes:

- **Factual resident** – you establish significant residential ties to Canada
  - **Primary residential ties to Canada:**
    - Where your spouse and children reside
    - Where you have a home available for your use
  - **Secondary residential ties to Canada:**
    - Personal property, e.g., car or furniture
    - Social ties, e.g., memberships in Canadian recreational or religious organizations
    - Economic ties, e.g., place of employment, bank accounts or credit cards
    - Passport
    - Health insurance
    - Driver's license
- **Deemed resident** – you do not establish significant residential ties to Canada, but you are in Canada for 183 days or more in a calendar year
- **Tax Treaty** – if you are considered a tax resident of Canada and another country, then the "Treaty" between the two countries, if one exists, needs to be reviewed to determine your residency status for both countries. The Treaty supersedes domestic legislation

# Tax Resident

**As a tax resident, you will be taxed on your worldwide income. Below are examples of income subject to Canadian tax, but not limited to:**

- Employment income
- Interest and dividends
- Capital gains – 50% is taxable
- Rental income
- Consulting income
- Partnership income
- Pension income (including withdrawals and distributions from non-Canadian funds)
- Other business income (including foreign businesses)

## **Tax Rates and Social Security Taxes:**

- A graduated income tax rate system is used in Canada, which is based on your level of income. Tax rates are subject to change every year and include both a Federal and Provincial tax component (depending on the province you reside for tax residents or employed in for non-tax residents)
- Deemed residents are subject to tax on worldwide income for the entire year on federal tax and federal surtax instead of provincial tax, unless Tax Treaty relief is available.
- It's important to note that in addition to the Canadian income tax system, you may also be required to contribute to Canadian social security taxes (Canadian Pension Plan and Employment Insurance).

## **2021 Canada Income and Payroll Tax rates\***

- **Federal:** From 15% to 33%
- **Provincial:** Varies depending on province
- **Federal surtax if no Province:** 48% of federal tax
- **Canada Pension Plan:** 5.7% of pensionable earnings, maximum earnings \$64,900
- **Employment Insurance:** 1.58% of insurable earnings, maximum earnings is \$60,300

\*Information is subject to change; Amounts will differ for Individuals employed in Quebec

# Non-Resident

**As a non-resident of Canada, you are required to report the following sources of income on a Canadian non-resident tax return:**

- Income from employment for services rendered in Canada
- Income from a business performed in Canada
- Taxable capital gains (losses) from the disposition of certain Canadian properties ( e.g., real estate)
- Rental income from Canadian real estate
- It is important to note that in addition to Canadian federal and provincial tax rates, you may be required to contribute to Canadian social security taxes (Canadian Pension Plan and Employment Insurance)

## Capital gains departure tax – if you become a non-resident

There are special capital gains departure tax rules that apply if you become a non-resident, which will deem you to have disposed of certain properties for their fair market value, with the resulting capital gains or losses being reported on your departure tax return.

### The more common properties affected include:

- Shares of public and private corporations
- Foreign real estate
- Investments held outside of registered financial accounts (e.g., investments such as a brokerage account held outside of a TFSA /RESP/ RRSP account)
- In the event you are resident in Canada for less than 60 months out of the last 120 months prior to ceasing residency, any capital property owned at the time you became a resident of Canada or inherited while a resident of Canada is exempt from these departure tax rules. For example, if you owned foreign real estate at the time you relocated to Canada and later ceased Canadian residency within the 60 month-period, the real estate would not be subject to departure tax.
- Investments held within a Canadian registered account and Canadian real estate are not subject to the departure tax rules.

# Selling Canadian real property as a non-resident

A non-resident selling Canadian real estate is required to have the purchaser's lawyer withhold 25% non-resident withholding tax from the sales proceeds (gross sales price) and remit to the CRA. However, a Certificate of Compliance (Form T2062) can be filed within 10 days of closing to allow the withholding to be remitted on the net gain. Please note that properties in Quebec are required to remit an additional 12.875% to Revenue Quebec. Any excess withholdings applied against actual income tax liability may be recouped by filing a Canadian tax return in the subsequent year.

There are significant penalties in the failure to file T2062; penalty of \$25 per day, minimum penalty of \$100 and maximum penalty of \$2,500.

## **Sale of principal residence considerations.**

- If the property qualifies as a principal residence, file T2091 (Designation of property as a principal residence by an individual) together with Form T2062. In Canada, gains on the sale of a principal residence are normally tax-exempt. However, where an individual has more than one residence, rented out the house previously or is a non-resident, gains on the sale may be subject to tax.

## **Home Buyers' Plan (RRSP) Repayment**

- Repayment required for any outstanding balance within 60 days after you become a non-resident.
- Otherwise, the balance will be included as income on your tax return



# Rental of a Canadian real property as a non-resident

## Rental income as a Non-Resident

- Canadian rental income earned by a non-resident of Canada is generally subject to a flat 25% withholding tax assessed on the gross rental income unless an election is made to the CRA by filing **Form NR6** before the first rental payment is due for the year as a nonresident.
- Once the NR6 is approved, the application allows the individual to reduce the obligation for withholding tax to 25% of the net rental income, taking into account estimated rental expenses.
- By March 31st of the following year, **Form NR4** must be filed to report the actual rental income received and income taxes remitted to the CRA. Finally, a **Section 216 Tax Return (T1159)** must be filed by June 30th to report the income and calculate the final tax liability.
- Net rental income is taxable at graduated rates if you timely file your Section 216 tax return, otherwise you are automatically subject to tax at 25% on gross income.
- Examples of rental expenses: advertising, insurance, professional fees, management fees, repairs and maintenance, property taxes and utilities
- You may claim a capital cost allowance (CCA) on depreciable property, if applicable. Special rules apply.

## Changing your principal home to a rental property. Important things to note:

- Typically, if your Canadian home is considered your principal residence, no capital gains tax will apply when you sell the home.
- If the principal residence is converted to an investment rental property, a “change in use” occurs, which results in the property going through a deemed disposition, which may result in a capital gains tax arising either at the change in use, or when you sell.
- A special Section 45(2) election can be made to reduce the potential taxes levied

## Ongoing obligations in Canada after departure

### Withholding tax Canadian-sourced employment income

- ✓ Applicable to employment income
- ✓ May include your employment equity income, (e.g., RSU income, stock option income) attributable to Canadian residency or services
- ✓ Withholding rates vary depending on the level of your employment income

### Withholding tax Canadian-sourced personal income

- ✓ Applicable on Canadian dividends and other sources of Canadian investment / pension income
- ✓ You are responsible to calculate the tax paid throughout the year on your rental income and report it on Form NR4 and file it by March 31
- ✓ Canadian sourced interest is typically not subject to withholding in Canada as a non-resident

# What you need to do before you leave Canada

## Action items to consider:

- Inform financial institutions of your change of residency date and new country of residence
- Inform provincial medical authority of your change of residency date
- Sever ties, (e.g., cancel gym membership, cancel credit cards)
- Understand the tax implications if you plan to regularly commute back to Canada

## You may also need to:

- Consider closing your TFSA and RESP accounts to avoid adverse tax implications in the US
- Inform the Canada Revenue Agency of your new address and date of move if you are receiving payments such as the child tax benefit or GST payments

## RRSP :

- Repay outstanding balance in Home Buyer's Plan (HBP) or Lifelong Learning Plan (LLP) if an amount was withdrawn from your RRSP
- Income and gains within an RRSP account remain tax-free in Canada until withdrawal.
- You are not required to withdraw funds upon ceasing residency, however, RRSP withdrawals while a non-resident of Canada is subject to 25% withholding tax, which may be reduced if there is a tax treaty between Canada and your country of residence
- Contribution room is still available for future use; however, you no longer generate additional contribution room while a non-resident of Canada unless you continue to earn income subject to Canadian taxation, e.g., employment income, rental income

# Taxation of capital gains and other investment income in Canada

**Capital gains:** Canada will not tax you on pre-arrival gains on assets/investments you hold when you arrive in Canada. When you dispose of the assets/investments while a tax resident of Canada, the cost basis is equal to the fair market value on the date you become a tax resident of Canada.

- Only 50% of the gain on a sale is considered taxable at ordinary rates
- You may carry forward excess allowable capital losses to future years indefinitely
- You may carry back allowable capital losses to three years prior by amending prior year returns only if the original tax returns were timely filed

## **Interest Income:**

- Interest income received/paid as a resident, e.g., bank accounts, Canada Savings Bonds, treasury bills, taxed at graduated rates

## **Dividend income:**

- Paid by Canadian corporation: income received is grossed up and taxable at graduated rates. You will also receive federal and provincial dividend tax credits on this income.
- Paid by non-Canadian corporation: income received is taxed at graduated rates with no dividend tax credits.

**Rental income:** net income is taxable at graduated rates.

- Examples of rental expenses: advertising, insurance, professional fees, management fees, repairs and maintenance, property taxes and utilities
- You may claim a capital cost allowance (CCA) on depreciable property, if applicable. Special rules apply.



# Canadian investment account options available upon arrival to Canada

## Tax-Free Savings Account (“TFSA”)

- Contribute up to a limited after-tax amount every year
- The withdrawal and income earned in this account is not taxable in Canada

## Registered Retirement Savings Plan (“RRSP”)

- Contributions should not be made in the first year if an individual has never filed a Canadian tax return reporting earned income, e.g., employment income
- Dollar-for-dollar deduction from taxable income up to contribution limit
- Fully taxable in the year of withdrawal or when distributed upon retirement
- Maximum contribution limit each year with unused contribution room available in future years

## Registered Education Savings Plan (“RESP”)

- Contributions are not deductible from income
- Income earned within the plan is paid as educational assistance payments (EAP) and the EAP is taxable to the beneficiary in the year of withdrawal
- Maximum contribution limit each year
- Government grants will be paid to the RESP if applicable

# Common tax credits and deductions available in Canada

**In Canada, you may be entitled to claim non-refundable tax credits and deductions. Listed are a few of the common tax credits / deductions that you may be eligible to claim.**

- Basic personal and spousal credits
- Payroll contributions paid to the Canadian Pension Plan and Employment Insurance programs
- Contributions to Canadian registered charities
- Medical expenses over a certain threshold
- Post-secondary tuition
- Foreign tax credits
- Professional and union dues
- Childcare expenses

# What are your other reporting obligations in Canada?

## What you need to consider, at a minimum:

### Foreign Income Verification Statement, Form T1135

- Canadian **resident individuals** who, at any time in the year, hold “specified foreign property” with an aggregate cost amount of more than \$100,000 are required to file Form T1135. Some examples of specified foreign property would be funds held in a foreign bank account, shares/funds of foreign corporations, foreign real estate property not held for personal use and foreign life insurance policies. The cost amount for assets owned before moving to Canada would be the market value on the date you became a Canadian resident.
- Form T1135 excludes certain property from the detailed reporting requirement. Examples are property used or held exclusively in the course of carrying on an active business, funds invested in registered pension plans, personal use property and shares in foreign affiliates.
- As a first-year Canadian resident, there is no requirement to file this form, however, if applicable, you need to file this form annually in future years.

### List of Properties, Form T1161

- **Part-year departing residents** need to complete this form with their Canadian tax return if the fair market value of all the properties owned when departing Canada is more than \$25,000 with some exceptions.

Both Forms T1135 and T1161 are due by the filing due date of your tax return. The penalty for failure to file these forms by the due date is \$25 for each day it is late. There is a minimum penalty of \$100, and a maximum penalty of \$2,500.

# Here's an overview of your tax return process:

Canadian tax year: January 1 to December 31

## January / February



- Deloitte emails request for Tax and Location Information
- Forms T4, T5 issued to you by February 28

## March



- Deadline to complete your Tax and Location Information
- You upload your tax documents to the GA portal
- Deloitte reviews your information upon submission
- Deloitte requests additional information as needed via GA portal
- Form T3 issued to you by March 31

## April 30



- April 30 - Canadian filing and payment deadline
- Deloitte submits your returns to you for delivery to the CRA (paper or electronically dependent on eligibility.)
- Please refer to filing instructions enclosed in your tax returns package)

## June



- June 15 - extended Canadian filing deadline for individuals reporting self-employment income
- June 30 - Filing deadline for Canadian non-resident Section 216 rental returns
- Deloitte submits your returns to you for delivery to the CRA (June 15 deadline)



## To provide during the tax return process

### You WILL need to provide:

- ✓ Employer compensation statement, Form T4
- ✓ Foreign compensation statements
- ✓ Other documents reporting tax withholdings

### You are responsible for:

- ✓ Providing us with copies of most recently filed Canadian return and Notice of Assessment, if applicable
- ✓ Completing GA Tax and Location Information
- ✓ Signing and mailing the returns to the tax authority (for paper-filed returns). Please refer to the filing instructions enclosed with the tax return package for any actions required by you. Some returns may be eligible for e-filing pending your authorization.



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