Taxation of international executives: Canada

January 2024

Contents

1	Overview and Introduction	4
2	Income Tax	6
3	Special considerations for short-term assignments	30
4	Other taxes and levies	34
5	Immigration	42

01

Overview and Introduction

1 Overview and Introduction

Both federal and provincial governments levy income tax. In all provinces but Québec, individuals file a single tax return with the federal government, which collects both federal and provincial taxes.

Québec collects its own tax using a separate tax return. Compliance is based on a self-assessment system.

Income of individuals, corporations, and trusts is subject to tax. Partnerships are not taxed directly; partners are instead taxed on their share of partnership income allocated to them at the end of each year.

Residents are subject to Canadian income tax on their worldwide income. If any income is attributable to compensation for services performed outside Canada and is subject to foreign tax, relief from double taxation is available by claiming foreign tax credits.

Non-residents are subject to Canadian income tax on compensation attributable to services performed in Canada, as well as on gains from the disposal of "Taxable Canadian Property", as defined in the Income Tax Act (Canada). Income earned in Canada from property and certain other sources such as dividends, rents, and royalties is subject to a federal tax levied at a flat rate of 25 percent (which may be reduced under the terms of an applicable tax treaty) that is withheld at source.

The official currency of Canada is the Canadian Dollar (CAD).

Herein, the host country/jurisdiction refers to the country/jurisdiction to which the employee is assigned. The home country/jurisdiction refers to the country/jurisdiction where the assignee regularly lives and is subject to income tax when they are not on assignment.

02

Income tax

2 Income Tax

2.1 Tax Returns and Compliance

When are tax returns due? That is, what is the tax return due date?

30 April following the reporting year except for individuals reporting self-employment income, in which case it is 15 June.

What is the tax year-end?

31 December.

What are the compliance requirements for tax returns in Canada?

The Canadian tax system is a self-assessment system. Individuals are required to determine their own liability for income taxes and file the required returns for any taxation year in which taxes are payable. Individuals each file their own tax returns; spouses do not file jointly. The taxation year for an individual is the calendar year.

Individual returns for both residents and nonresidents of Canada are due on 30 April of the following year and there are no provisions for extension of this deadline other than by the government authorizing an extension for all individual filers. This usually occurs when the regular date falls on a weekend or public holiday. The tax return due date for individuals who are reporting self- employment income on their Canadian tax returns is 15 June for both residents and nonresidents, but any taxes due must be paid by 30 April to avoid arrears interest being assessed. Late filing penalties and interest are based on unpaid taxes owing on the 30 April or, for self-employed taxpayers, 15 June filing deadline and additional penalties apply to certain tax information forms if they are not filed by the relevant income tax return deadline.

Residents

Individuals resident in Canada are subject to Canadian income tax on their worldwide income, regardless of where it is earned or where it is received, and they are eligible for a potential credit or deduction for foreign taxes paid on income derived from foreign sources.

There are few specific rules in the Income Tax Act for determining whether an individual is resident in Canada. Each case is usually decided based on the application to an individual's facts of criteria developed by Canadian jurisprudence and applied by the Canada Revenue Agency ("CRA"), which is the federal tax authority. By commencing long-term or permanent employment, acquiring a dwelling place, moving one's family into the country/jurisdiction, and establishing multiple secondary residential ties with Canada (such as acquiring Canadian bank and investment accounts, club and/or professional memberships, a provincial health card and/or a provincial driver's license), an individual may establish Canadian residency at a specific point in time. Canadian residency may also be established by virtue of the taxpayer's clear intention to remain in Canada for a lengthy or indefinite period. Where residence is established by reference to the occurrence of particular events on or by a specific date in a calendar year, the individuals are taxed as Canadian residents for the part of the year that commences from that date and as non-residents for the preceding portion of that year.

When residency is terminated by reference to the occurrence of particular events, individuals are taxed as Canadian residents for the period of 1 January to the date residency ends, and as non- residents for the remainder of that year.

An individual may also be deemed, under the "sojourning" rule in the Income Tax Act, to be a Canadian resident taxpayer for the entire calendar year in which the individual is physically present in Canada for 183 days or more in that year. Deemed residents are subject to Canadian tax on their worldwide income for the relevant calendar year. Tax relief may be available if the individual is also a resident of another country/jurisdiction which has a tax treaty with Canada, as described in the following section.

Non-residents

Non-resident individuals are subject to Canadian income taxes, calculated at the same graduated rates applicable to residents, on the following types of Canadian-source income:

- employment income
- business income
- Gains from the disposition of "Taxable Canadian Property" (see definition provided in the "taxation of investment income and capital gains" section).

Non-residents must file Canadian tax returns to report any of the above types of income and the final Canadian tax liabilities on the relevant income.

Income earned in Canada from property and certain other sources such as dividends, gross rents, and royalties is subject to federal tax levied at a flat rate of 25 percent (which may be reduced under the terms of an applicable tax treaty) that is withheld at the source. A non-resident may elect, if done on a timely basis, to pay Canadian tax at the same graduated rates as a resident on net rental income from Canadian real property, instead of having to pay a tax of 25 percent on the gross rents received in the calendar year.

Individuals are deemed, under the Income Tax Act, to be non-residents of Canada if they are primarily residents of another country/jurisdiction under the residency tie-breaker provisions of a tax treaty between that country/jurisdiction and Canada, regardless of Canadian domestic residency rules or the sojourning rule.

2.2 Tax rates

What are the current income tax rates for residents and non-residents in Canada?

Residents

Federal income tax

Federal tax is calculated by applying a progressive tax rate schedule to taxable income. The tax rates and income thresholds are the same for residents, part-year residents and non- residents.

The thresholds are indexed by the Federal government for inflation prior to the start of each calendar year.

Income tax table for 2024

Taxable income bracket		Total tax income below bracket	Tax rate on income in bracket
From CAD	To CAD	CAD	Percent
0	55,867	0	15.0
55867.01	111,733.00	8,380.05	20.5
111,733.01	173,205.00	19,832.58	26.0

Taxable income bracket		Total tax income below bracket	Tax rate on income in bracket
From CAD	To CAD	CAD	Percent
173,205.01	246,752.00	35,815.30	29.0
246,752.01	and over	57,143.93	33.0

The above rates will be reduced, by means of a credit equal to 16.5 percent of the applicable regular federal rate, for individuals who are also subject to Québec income tax in the same year.

Provincial and Territorial income taxes

The provinces and territories (except Québec) use the same taxable income calculated for federal tax purposes but apply their own tax rates and tax brackets to that income figure. The provinces and territories also set their own non-refundable tax credits and maintain any low-rate tax reductions and other provincial/territorial credits currently in place. The CRA administers both federal and provincial/territorial taxes, except for Québec's tax system, which is administered by Revenu Québec; thus, most taxpayers calculate their Canadian federal and provincial/territorial taxes on one return.

2024 tax rates (as a percent of taxable income)

	Brackets	Provincial surtax threshold
British Columbia	5.06% 0 – 47,937.00 7.70% 47,937.01 – 95,875.00 10.50% 95,875.01 – 110,076.00 12.29% 110,076.01 – 133,664.00 14.70% 133,664.01 – 181,232.00 16.80% 181,232.01 – 252,752.00 20.50% 252,752.01 and over	
Alberta	10% 0 – 148,269.00 12% 148,269.01 – 177,922.00 13 % 177,922.01 – 237,230.00 14% 237,230.01 – 355,845.00 15% 355,845.01 and over	
Saskatchewan	10.50% 0 – 52,057.00 12.50% 52,057.01 – 148,734.00 14.50% 148734.01 and over	
Manitoba	10.8% 0 – 47,000.00 12.75% 47,000.01 – 100,000.00 17.4% - 100,000.01 and over	
Ontario	5.05% 0 – 51,446.00 9.15% 51,446.01 – 102,894.00 11.16% 102,894.01 – 150,000.00 12.16% 150,000.01 – 220,000 13.16% 220,000.01 and over	20% on tax greater than $5,554 Plus an additional 36% on tax greater than $7,108

Québec	14.0% 0 – 51,780.00 19.0% 51780.01 – 103,545.00 24.0% 103,545.01 – 126,000.00 25.75% 126,000.01 and over
New Brunswick	9.40% 0 – 49,958.00 14.0% 49,958.01 – 99,916.00 16.0% 99,916.01 – 185,064.00 19.50% 185,064.01 and over
Nova Scotia	8.79% - 0 - 29,590.00 14.95% - 29,590.01 - 59,180.00 16.67% - 59,180.01 - 93,000.00 17.50% - 93,000.01- 150,000.00 21.00% - 150,000.01 and over
Prince Edward Island	9.65% - 0 - 32,656.00 13.63% - 32,656.01 - 64,313.00 16.65% - 64,313.01 – 105,000.00 18.00% - 105,000.01 – 140,000.00 18.75% - 140,000.01 and over
Newfoundland and Labrador	8.70% 0- 43,198.00 14.50% 43,198.01 – 86,395.00 15.80% 86,395.01 – 154,244.00 17.80% 154,244.01–215,943.00 19.80% 215,943.01 – 275,870.00 20.80% 275,870.01 – 551,739.00 21.30% 551,739.01 – 1,103,478.00 21.80% 1,103,478.01 and over
Yukon Territory	6.40% 0 – 55,867.00 9.00% 55,867.01 – 111,733.00 10.90% 111,733.01–173,205.00 12.80% 173,205.01 – 500,000.00 15.00% 500,000.01 and over
Nunavut	4.00% 0 – 53,268.00 7.00% 53,268.01 – 106,537.00 9.00% 106,537.01 – 173,205.00 11.50% 173,205.01 and over
Northwest Territories	5.90% 0 – 50,597.00 8.60% 50,597.01 – 101,198.00 12.20% 101,198.01 – 164,525.00 14.05% 164,525.01 and over

Non-residents

Non-residents have the same federal tax and provincial/territorial tax rates as residents. On income not allocable (by Federal regulation) to a province or territory, a federal surtax calculated as 48 percent of the normal federal tax is applicable (in lieu of provincial tax).

2.3 Residence rules

For the purposes of taxation, how is an individual defined as a resident of Canada?

Residency is determined based on the facts of each case applying the Income Tax Act and criteria developed by jurisprudence. The following considerations are taken into account:

- the nature of the stay in Canada
- the length of the stay
- whether or not the individual is accompanied by their spouse and family
- the location of the individual's center of economic interests
- the individual's intentions
- whether or not the individual is registered to vote in a municipal election the place where bank accounts are held
- the terms of employment
- entitlement to subsidized provincial healthcare.

The criteria look to whether there are "durable" ties of a personal nature that the individual has established with Canada. The term durable need not mean permanent; the closeness of the tie is more important. Ties of a personal nature excluding purely business considerations; personal circumstances, such as the maintenance of an abode and whether the spouse and dependent children live with the taxpayer in Canada, are more determinative. Residence abroad does not in itself exclude the possibility of being considered resident in Canada. However, dual residence resulting in double taxation may be resolved under the residency tie-breaker terms of a particular tax treaty. Canadian civil servants living abroad are deemed resident in Canada.

An individual may also be deemed, under the "sojourning" rule in the Income Tax Act, to be a resident of Canada for the entire calendar year in which that individual was physically present in Canada for more than 182 days, unless they are able to apply the residency tie-breaker rules in a tax treaty between Canada and the individual's country/jurisdiction of residence to override this rule.

Is there a de minimus number of days rule when it comes to residency start and end date? For example, a taxpayer cannot come back to the host country/jurisdiction for more than 10 days after their assignment is over and they repatriate.

No.

What if the assignee enters the country/jurisdiction before their assignment begins?

An assignee who enters the country/jurisdiction before the start of the assignment may be considered to have established sufficient residential ties with Canada to become a resident on the earlier date and thus be required to pay Canadian taxes on worldwide income commencing from that day for the remainder of the calendar year, or even for the entire year if the assignee is physically present in Canada for 183 or more days in that year and is unable to invoke the residency tie-breaker rules in a tax treaty between Canada and the country/jurisdiction where the assignee purportedly remains resident.

2.4 Termination of residence

Are there any tax compliance requirements when entering or leaving Canada?

Generally, an individual must pass through a Canada Border Services Agency checkpoint at the place of entry or departure and show a valid work permit or employment authorization and passport.

However, there are no income tax compliance requirements on the entry or departure dates.

Taxpayers who establish or terminate Canadian residency during a calendar year must report the relevant date of that event on page 1 of their Canadian tax return for that year.

Departure tax

Individuals are deemed by the Income Tax Act to dispose of most property upon ceasing Canadian residency for notional proceeds equal to the fair market value of the subject property on the date they cease being residents of Canada for income tax purposes. Exceptions include Canadian real property, certain property used in a business in Canada, unexercised stock options, unvested restricted share units and assets held inside of certain Canadian pension plans, which remain subject to Canadian tax upon sale or distribution unless relieved by a tax treaty, as well as to assets held within various foreign pension plans which are usually never subject to the deemed disposition rule.

If a departing taxpayer owns assets that are subject to departure tax, the tax may be deferred until the assets are actually disposed of by posting security acceptable to the CRA prior to the filing deadline for the tax return for the year of departure and by making the appropriate election on that return, which must be timely filed. The intention behind the departure tax rule is that taxpayers should be taxed on all gains that accrue during their period of residence. However, provisions exist to exempt "short-term residents" from the application of these rules in relation to property that was held throughout the period of residence. A short-term resident is an individual who has been resident in Canada for less than 60 months during the 120 months period that ends on the individual's departure date. If an individual qualifies for this exemption, the deemed disposition rule will only apply to any property acquired while the individual was resident in Canada. Furthermore, inheritances received during the period of Canadian residency are also excluded if the individual is resident in Canada for less than 60 months during the 120 months period ending on the individual's departure date.

Certain information returns may also need to be filed with the departure year return, which include a listing of assets held by an emigrant of Canada on the date that they ceased Canadian residency (Forms T1161 and T1243). Late-filing penalties will apply if these information returns are not filed with the CRA by the filing deadline for the individual's Canadian tax return for the year of departure.

What if the assignee comes back for a trip after residency has terminated?

Assignees who return to Canada for a trip after their Canadian residency originally terminated may be viewed by the CRA as having extended their residency termination date and thereby become subject Canadian tax on their income earned after the end of their assignment in Canada.

Furthermore, the assignees may be deemed to be resident in Canada for the entire calendar year and be subject to Canadian tax on worldwide income if they sojourned (were temporarily present) in Canada for a total of 183 days or more in any calendar year unless they are eligible for a tax treaty exemption under the residency tie-breaker rules.

Communication between immigration and taxation authorities

Do the immigration authorities in Canada provide information to the local taxation authorities regarding when a person enters or leaves Canada?

Not directly, but information may be shared between the two groups.

Filing requirements

Will an assignee have a filing requirement in the host country/jurisdiction after they leave the country/jurisdiction and repatriate?

Generally, assignees are considered to become non-residents of Canada for tax purposes when they are repatriated to their home country/jurisdiction and all primary residential ties with Canada are severed and established in that home country/jurisdiction. For the part of the calendar year an assignee is a resident of Canada for tax purposes, income from all sources, both inside and outside Canada, should be reported on the Canadian tax return. After leaving Canada, the assignee should be treated as a non-resident, provided most, if not all, residential ties with Canada have been eliminated and have been established with the jurisdiction where the assignee is purportedly resident. Non-residents are only subject to Canadian tax on income received from Canadian sources. Deferred compensation such as bonuses, stock options and Restricted Share Units related to the Canadian assignment may still be taxable in Canada when received by former assignees subsequent to their departure from Canada.

After departure from Canada, Canadian source employment income and self-employment income are generally subject to Canadian income tax, under Part I of the Income Tax Act (and the corresponding provisions of the relevant provincial or territorial tax statutes), calculated by applying the same federal and provincial rates and thresholds that apply to residents of Canada, whereas Canadian source investment income received by a non-resident is generally subject to federal Part XIII tax (imposed at a flat rate of 25 percent) on passive income, although this rate may be subject to reduction under the relevant terms of an applicable tax treaty. If the income received is subject to Part XIII tax, a Canadian tax return need not be filed, except when Canadian rental income, timber royalties, or certain Canadian pension income are received, in which case the nonresident individual may be able to elect to file a Canadian tax return and have the net income taxed at regular rates and thresholds, if that will result in a lower amount of Canadian tax than if the flat 25 percent Part XIII tax applies to the gross income. If the income is subject to Part I tax, a Canadian nonresident tax return has to be filed to report the income and calculate the Canadian tax that is applicable.

An assignee must file a Canadian tax return if:

- tax is owed; or
- a refund is to be claimed because too much tax was withheld or paid in the tax year.

The due date of a Canadian individual tax return is 30 April following the end of the reporting calendar year, unless self-employment income is being reported on it, in which case the filing deadline is 15 June. The same filing deadlines apply to any individual who has to file a Québec provincial tax return.

2.5 Economic employer approach

Do the taxation authorities in Canada adopt the economic employer approach to interpreting Article 15 of the Organisation for Economic Co-operation and Development (OECD) treaty? If no, are the taxation authorities in Canada considering the adoption of this interpretation of economic employer in the future?

Most of Canada's tax treaties adopt the economic employer approach.

De minimus number of days

Are there a de minimus number of days before the local taxation authorities will apply the economic employer approach? If yes, what is the de minimus number of days?

The economic employer approach is not based on a minimum number of days; however, there are certain treaties that permit exemptions from Canadian income tax on maximum employment income amounts earned in Canada each calendar year regardless of who pays them or whether they are charged to a source in Canada (such as the exemption from Canadian tax on employment compensation earned in Canada if the total amount received does not exceed CAD 10,000 in the calendar year, which is provided in the Canada-US tax treaty).

2.6 Types of taxable compensation

What categories are subject to income tax in general situations?

Taxable compensation includes the following items of employee compensation:

- Salary, wages, and other remuneration, including gratuities received in the year.
- Bonuses of any kind, including signing bonuses.
- Director's fees.
- Benefits received from an employer (such as premiums for life insurance and for disability insurance, personal living expenses, personal use of employer owned or leased motor vehicles, automobile, cost of living and other allowances, board and lodging, employer contributions to various plans for the benefit of the employee, etc.) unless specifically excluded by a provision of the Income Tax Act or by the terms of an applicable tax treaty.
- Allocations under employee profit sharing plans.
- Stock option benefits, which are generally taxable on their exercise dates.
- Restricted Share Units, which are generally taxable on their vesting dates.
- Restricted Stock Awards (generally taxable on the date the employee has a legal right to the shares and enjoys all of the attributions of ownership (i.e., voting rights and dividend entitlements), even though the employee may be subject to a restriction on when the shares may be sold.
- Any other type of deferred employee compensation, whether received in cash or in some other type of property, such as shares.
- Employee loans forgiven by the employer.
- Employer contributions made to an employee benefit plan unless exempt under the Income Tax Act or under a relevant Tax Treaty.
- Employer reimbursement of housing losses unless exempt under the Income Tax Act.
- Employer provided housing subsidies unless exempt under the Income Tax Act.
- Deemed interest benefits on interest free or low interest rate employer loans.

Employment income is taxable when received or when the individual is entitled to receive it, if earlier.

Employment income is subject to Canadian tax to the extent it was earned during a period of Canadian residence, regardless of where it was earned or received, or, in the case of income earned while non-resident, to the extent it was earned in respect of duties performed in Canada, regardless of who paid it.

Residents of Canada are subject to Canadian income tax on their employment compensation they either received in the calendar year or are legally entitled to receive during the year, regardless of where they earned it or where they were paid or where their employer is located.

Non-residents are only subject to Canadian income tax on their taxable compensation earned from performing employment or self-employment services in Canada.

Intra-group statutory directors

Will a non-resident of Canada who, as part of their employment within a group company, is also appointed as a statutory director (i.e., a member of the Board of Directors in a group company

situated in Canada) trigger a personal tax liability in Canada, even though no separate director's fee/remuneration is paid for their duties as a board member?

Yes, but only to the extent the director fees were earned by the non-resident from physically attending board meetings held within Canada, or performing other activities in Canada, to earn those fees. Fees earned from participating in Board Meetings held in Canada by telephone, Skype, Zoom or some other media while the nonresident director is actually physically present outside of Canada should be exempt from Canadian income tax.

a) Will the taxation be triggered irrespective of whether or not the board member is physically present at the board meetings in Canada?

No. The nonresident director must perform the relevant director duties while being physically present within Canada to be subject to Canadian income tax.

b) Will the answer be different if the cost directly or indirectly is charged to/allocated to the company situated in Canada (i.e., as a general management fee where the duties rendered as a board member is included)?

No. Whether the costs are directly or indirectly borne by the Canadian company, the nonresident director should only be subject to Canadian on the portion of any compensation received from physically performing the relevant services in Canada.

c) In the case that a tax liability is triggered, how will the taxable income be determined?

The Canadian company has the legal responsibility, under the Income Tax Act and the Income Tax Regulations of Canada, to withhold Canadian income tax from the gross fees and to report the gross fees and related Canadian withholding tax on a T4 “Statement of Remuneration Paid” (the Canadian equivalent of a US W-2 or a UK P60 statement).

2.7 Tax-exempt income

Are there any areas of income that are exempt from taxation in Canada? If so, please provide a general definition of these areas.

The following paragraphs identify the types of employment income that may qualify for exemption from Canadian income tax.

Certain employer provided housing allowances (employer’s contribution to rent) - Special Work Site Provisions

If an employer provides an employee with a housing allowance, board and lodging, low-rent or rent- free housing, the employee is deemed by the Act to have received a taxable benefit equal to the relevant amount. Employer-provided household furnishings are taxable to the extent that the individual would otherwise have been out-of- pocket. An exemption exists if the taxpayer qualifies for the special work site provisions. To qualify for this special provision, all of the following requirements must be met.

- The employee is required to work at a special work site on a ‘temporary’ basis (i.e., generally, the period to be spent at the special work site is reasonably expected at its outset not to exceed 2 years).
- The employee’s principal residence (their regular home, which must be a self-contained dwelling unit either owned or rented by the individual) must be available for their use throughout the assignment period and not rented out.
- The employee’s principal residence must be too far from the special work site for daily commuting.
- The employee is required to be away from their principal residence and to be present at the special work site for at least 36 hours.

If all of the above requirements are met, this provision also exempts reasonable transportation costs paid to, or on behalf of, the employee for travel between the special work location and the place of principal residence.

This exemption may also be available if the employee is required to work at a remote location (logging camp, mine, and so on).

It is recommended that employees, or their employer, consult their tax advisers regarding their particular facts and circumstances to determine whether the employees qualify for this exemption.

Certain employer provided housing allowances (cost of utilities)

The cost of utilities paid for employees is considered a taxable benefit. An exemption exists if the employee qualifies for the special work site provisions described in the preceding paragraphs. It is recommended that employees coming to Canada on assignment, or their employer, consult their adviser regarding their particular facts and circumstances to determine if they qualify.

Living away from home allowance (LAFHA)

The Living Away From Home Allowance (LAFHA) is considered a taxable benefit. An exemption exists if the taxpayer qualifies for the special work site provisions. It is recommended that the employees or their employer consult their tax adviser regarding the employees' particular facts and circumstances to determine whether the employees qualify for the exemption.

Certain employer provided tax reimbursements

The following are the usual methods of recognizing tax reimbursements paid by the employer:

- current-year gross-up
- current-year reimbursement
- 1-year rollover.

A gross-up is not required in the year of departure but it may be advisable in order to avoid having to file an income tax return in the year after departure.

Certain employer provided relocation reimbursements

The reimbursement of most actual relocation expenses is generally not taxable. However, if a non-accountable allowance is provided instead, any amount in excess of CAD 650 is a taxable benefit.

Eligible moving expenses may offset this taxable allowance. However, eligible moving expenses are usually deductible only for moves within Canada.

Home leave

Home leave is considered a taxable benefit. An exemption exists if the taxpayer qualifies for the special work site provisions. It is recommended that the taxpayer consult their adviser regarding their particular facts and circumstances to determine if they qualify.

Under the special work site provisions, exempt employer-provided transportation or allowances must relate to transportation between the individual's principal place of residence and the work site. Accordingly, any transportation assistance relating to travel between the work site and a location other than the individual's principal place of residence (such as a vacation in lieu of going home) will not be excluded from taxable income.

Certain employer provided education costs

The cost of education provided to an employee that is mainly for the benefit of the employer is not taxable to the employee. A taxable benefit arises when the education is mainly for the employee's benefit or relates to schooling for their dependents.

Certain bonus payments

A bonus in respect of non-Canadian source employment is generally not subject to Canadian tax if paid before the individual becomes a resident of Canada, or after they cease to be resident in Canada (e.g., stock options that were granted and fully vested before the employee began working in Canada, but that were not exercised by the employee until after leaving Canada).

However, both a bonus received by an employee while resident in Canada, regardless of when and where it was earned, and a bonus that is received after the employee ceases to be a Canadian resident, but was earned during a Canadian assignment, are taxable in Canada.

Certain interest subsidies

If the employer provides a low-interest or interest-free loan to an individual, the individual is considered to have received a benefit from employment. The benefit is determined by applying the CRA's prescribed interest rate applicable during each quarter of the year the loan is outstanding to the loan balance in that quarter. The resulting products are then prorated by the number of days the loan is outstanding during the relevant quarter divided by the total days in the calendar year before being added together and included in the employee's taxable compensation for the year. The calculation of the taxable benefit is calculated on a simple interest basis, with no compounding required.

Any partial repayments made during the year are netted from the loan balance in calculating the deemed interest benefit. The benefit is reduced by any interest actually paid by the individual on the loan during the year or within the first 30 days of the following year before being included in the employee's taxable compensation.

The imputed interest that is included in income as a taxable benefit is deemed to be interest paid by the individual. As a result, if such interest would otherwise have been deductible had it been paid on the loan by the individual, it can be deducted on the individual's Canadian tax return.

Special rules exist with respect to low-interest or interest-free "home relocation" loans. The employee is considered to have received a loan or incurred a debt when the funds are advanced, or the relevant documents are produced, and they become legally obligated to repay the loan or discharge the debt. The CRA prescribed rate applicable on the date the loan is advanced is used for calculating the taxable income during the first 5 years the loan is outstanding and is replaced by the prescribed rate in effect on the first day of each succeeding 5-year period the loan remains outstanding.

Certain auto allowances

Reasonable automobile allowances calculated on a per kilometer basis that are paid to employees who use their personally owned motor vehicles for business purposes are not considered a taxable benefit to those employees if the allowances do not exceed the rates set for each year by CRA (For 2024, the rates are CAD 70 cents per kilometer for the first 5,000 kilometers driven and CAD 64 cents per kilometer driven after that). However, those allowances will become taxable in the year received if the employer also reimburses the employees for any of the employees' car expenses (e.g., gas, insurance) or pays the employees any additional lump sum allowance during the same year.

If the employer provides an automobile for the individual, rather than paying a cash allowance or reimbursement, the value of the taxable benefit received by the employee is calculated each year using a predetermined formula and may differ depending on whether the automobile is purchased (with the original cost to the employer always being used to calculate the benefit) or leased (with the actual monthly lease payments for the relevant year being used) by the company. The benefit is based on a two-fold calculation including a stand-by charge, which is based on the employer's purchase or lease cost for the automobile, and an operating cost benefit that is calculated by multiplying the employee's annual total personal use mileage for the automobile by the rate set by the federal government for the relevant year (for 2024, this rate is CAD 33 cents per kilometer).

The stand-by charge may be reduced if the employee uses the automobile more than 50 percent for business and drives less than 20,004 kilometers per year for personal use. The operating cost benefit may also be reduced if the individual uses the automobile more than 50 percent of the time for business use. Contemporary documentation, such as logbooks, is usually required by the CRA to support the eligibility of an employee for a reduced automobile benefit.

Health insurance

Employer contributions to contributions to private health plans (such as medical or dental plans) made on behalf of employees (including their spouses and dependent children) are not considered to be taxable benefits, except for Québec tax purposes. However, employer contributions of an employee's premiums to a provincial medical care insurance plan are considered taxable benefits for the employee.

2.8 Expatriate concessions

Are there any concessions made for expatriates in Canada?

The following paragraphs describe the provisions in the Income Tax Act that may apply to expatriates working on temporary assignment within Canada:

Adjustment in tax cost basis of assets held on arrival

An individual is deemed by the Income Tax Act to have disposed of all of their assets (other than Taxable Canadian Property) and to have reacquired the same assets at their fair market value immediately before becoming residents of Canada. Thus, if an individual has highly appreciated assets and establishes residency in Canada prior to selling any of them, only the appreciation in the fair market value of those asset between the individual's entry date and the sale closing date will be subject to Canadian income tax. However, any appreciated losses for assets acquired before establishing Canadian residency due to a decrease in their fair market values from their original costs will be lost due to the application of this rule.

Special work site exemption

See also section titled Tax-Exempt Income section with respect to the special work site provision.

Foreign Pension Plans

Canada allows individuals who are temporarily working in Canada to continue to participate in qualifying foreign employer-sponsored pension plans or foreign Social Security Arrangements. Under the terms of some of Canada's tax treaties (e.g., the tax treaties with the US, Germany, France, Italy, The Netherlands and the UK) an individual may be able to claim a deduction on their Canadian tax returns for the contributions made in the reporting year to a foreign employer-sponsored pension plan and/or a non-refundable tax credit for contributions made to a foreign Social Security Arrangement in the country/jurisdiction where the individual resided before coming to Canada.

The relevant prescribed form must be completed to identify the portion of the contributions made to the eligible foreign plan during the year that may be deducted, or claimed as a credit, in calculating the contributor's Canadian income tax and filed with the individual's Canadian tax return. For contributions made to qualifying US plans, Form RC267 is applicable and for contributions made to qualifying foreign plans of other countries/jurisdictions, Form RC269 is applicable.

Gains from employee stock option exercises

Stock option income is taxable in Canada if the individual is a resident when the options are exercised. Stock option income may also be taxable in Canada if the options were granted while the individual was a resident of or working in Canada (even if exercised after departure from Canada). A foreign tax credit may be available if the stock option income was subject to tax in another jurisdiction.

A deduction equal to 50 percent of the taxable stock option benefit may be available if all of the following criteria is met.

- The shares are qualifying shares (generally common shares).
- The exercise price is not less than fair market value, at the time the options were granted, of the shares to be received on exercise.
- The employee deals with the employer at arm's length.

For Québec income tax purposes, the deduction is generally equal to 25 percent of the qualifying stock option benefit.

Employers are permitted to factor in the 50% deduction in calculating the Canadian withholding taxes that must be deducted from the benefits realized on stock option exercises.

The stock option deduction rules were formally amended by the Canadian Parliament and went into effect on July 1, 2021 to limit the amount of qualifying stock option benefits that may benefit from the 50 percent deduction for each calendar year in respect of stock options granted by corporations (other than those that fell within the definition of a "Canadian Controlled Private Corporation", or that have annual gross revenue of CAD 500 Million or less) after June 30, 2021 to the first CAD 200,000 of options that vest during the calendar year based on the fair market value of the underlying shares on the grant date of the options.

Employers must track options they or a related corporation (e.g., a foreign parent corporation) granted to their employees after June 30, 2021 and determine the excess amounts, if any, that occur on the exercise of those options and report the portions of the resulting benefits that qualify and that do not qualify for the 50% deduction on the employees' (or former employees') T4 statements issued for the exercise year together with any other Canadian source employment income received during the same calendar year. A Canadian corporate tax deduction for the excess portions of employee stock options that do not qualify for the 50% deduction because of the new annual vesting limits may be available to the employer. Employers may also designate new options as non-qualifying deduction to ease the tracking requirements and provide for a corporate tax deduction. However, both the employees receiving the option grants and the CRA must be notified in writing that this designation is being made within 30 days of the grant date.

Stock options granted before July 1, 2021 will not be subject to the new rules.

2.9 Salary earned from working abroad

Is salary earned from working abroad taxed in Canada? If so, how?

The salary of a Canadian resident is taxable in Canada regardless of where the services are performed or where the salary is received by or paid to the employee or where the employer paying the compensation is resident. The allocation of income to foreign business trips is beneficial only as far as it can be used to alleviate double taxation through the foreign tax credit mechanism. The relevant foreign tax must have been paid to the country/jurisdiction where the services were provided to be eligible to be claimed as a foreign tax credit to reduce the Canadian tax on that income.

See also section titled Tax-Exempt Income section with respect to the special work site provision.

2.10 Taxation of investment income and capital gains

Are investment income and capital gains taxed in Canada? If so, how?

Yes, as described in the following paragraphs.

Dividends, interest, and rental income

Dividends and interest income are generally taxable in Canada in the calendar year in which the income is received. In addition, for loan investments that do not pay interest on an annual basis, an annual interest accrual may need to be determined and included in taxable income. Dividends from taxable Canadian corporations are taxed at a reduced rate through a gross-up and tax credit mechanism, which in principle takes into account income taxes paid at the corporate level. In the case of income from foreign investments, taxes withheld in the source jurisdiction are creditable against Canadian taxes otherwise payable, based on the lower of 15 percent and the applicable tax treaty rates, and calculated on a country-by-country basis. Taxes paid to one foreign jurisdiction may not be claimed as foreign tax credits to reduce Canadian income tax applicable to investment income received from another foreign jurisdiction.

Upon the disposition of capital property, the gain or loss is calculated as the difference between the cost base of the asset and the proceeds of sale (less any selling expenses). Only one-half of the net capital gain is added to taxable income, while a net capital loss may be carried back to reduce capital gains realized in any of the 3 prior years, and thereby recover the relevant tax, or be carried forward and applied to reduce net taxable capital gains realized in any future tax year. Canadian residents owning “qualified small business corporation shares” may qualify for a lifetime exemption (applied on a cumulative basis) of up to CAD 1,016,836, or for a lifetime exemption of up to CAD 1,016,836 for qualified Canadian farm property or qualified Canadian fishing property they own, on the disposition of that property on or after 1 January 2024. Donations of certain appreciated capital property to registered charities may result in no capital gains being subject to tax and a donation credit being available to the donor.

Accrued capital gains can also create an income tax liability at death. An individual is deemed by the Income Tax Act to dispose of all assets held at the date of death for proceeds equal to their fair market value on that date, and the accrued capital gains or losses are reported on the individual’s tax return for that year. An exception to this deemed disposition rule applies if the individual was a resident of Canada at the time of death and the property was transferred either to a surviving spouse who was also resident in Canada on the same date or to a Canadian spousal trust created under the deceased spouse’s will for the lifetime of the surviving spouse.

Capital gains are generally measured from the original cost of the particular property. However, on immigration to Canada, most property owned by the individual is deemed to be reacquired at its fair market value as of the date of immigration. This usually ensures that Canada only taxes the capital gains that accrue while the individual is resident in Canada.

Foreign exchange gains and losses

When non-Canadian property is sold or deemed to have been sold, generally the gain for Canadian tax purposes must be calculated by converting the net proceeds into Canadian Dollars on the closing date or the deemed closing date and by converting the cost into Canadian Dollars using the exchange rate as of the date the property was purchased or was deemed to have been purchased.

As a result, a foreign exchange gain or loss may arise on the sale or the deemed sale that is independent of the actual gain or loss on the property.

The tax treatment of the foreign currency gain/loss as either income (100 percent taxable or deductible) or as capital (50 percent taxable and any loss being deductible only against capital gains) usually follows the character of the asset generating the gain/loss.

Principal residence gains and losses

Capital gains arising on the disposition of a principal residence are generally not subject to tax with respect to the years it was owned and lived in by an individual, or by a spouse or child of that individual, while the individual was a resident of Canada. A principal residence can be located in another country/jurisdiction. A family (husband and wife or common law spouses) is limited to designating only one home as a principal residence per tax year. A loss realized on the sale of a principal residence is not deductible.

Capital losses

Capital losses can be used to reduce capital gains incurred during the year to a balance of zero. A net capital loss occurs when capital losses exceed capital gains during the year.

Generally, net capital losses can be applied against taxable capital gains of the 3 preceding years and to taxable capital gains of all future years.

Disposition of Taxable Canadian Property

Both residents and non-residents are subject to Canadian income tax on any net gains realized from the disposition in a calendar year of Taxable Canadian Property ("TCP"). This term is defined in the Income Tax Act and includes:

- real or immovable property located within Canada
- capital property, intangible property and inventory used in carrying on a business in Canada
- an interest in a private corporation, partnership or trust which derived more than 50 percent of its value directly or indirectly from real property or resource property or timber property located in Canada at any time during the 60 months period ending on the disposition or deemed disposition date of the interest.
- any shares in the capital stock of a publicly traded corporation of a mutual fund corporation or units in a mutual fund trust if the shares or units constituted 25 percent or more of the issued shares or the issued units and the public corporation, mutual fund corporation or mutual fund trust derived more than 50 percent of its fair market value directly or indirectly from real property or resource property or timber property located in Canada at any time during the 60 months period ending on the disposition or deemed disposition date.

Depending on the nature of the TCP, the gain will be treated as either income (100 percent taxable) or as a capital gain (50 percent taxable) and must be included in the individual's Canadian tax return for the year of disposition. The sale of inventory and the recapture of past tax depreciation on depreciable assets (e.g., a rental property) are examples of dispositions giving rise to income, whereas most other sales generally result in capital gains or losses being realized by the vendor.

Non-residents are also subject to a Canadian withholding tax, which must be deducted and remitted to the CRA by the purchaser (whether a resident or a non-resident of Canada), equal to either 25 percent or 50 percent (depending whether income or a capital gain was realized on the sale) of the gross sales proceeds within 30 days from the end of the month in which the disposition is closed, unless the non-resident vendors obtain tax clearance certificates from the CRA (and from Revenu Québec in respect of the sale of Taxable Canadian Property located in Québec) to base the withholding tax on their net gains from the dispositions and pay that tax to the CRA (and to Revenu Québec in respect of the disposition of Taxable Canadian Property located in Québec). Any withholding tax paid by the non-resident may be claimed on their Canadian tax returns against their final tax liability determined on those returns and any excess withholding tax should be refunded by the CRA (or by Revenu Québec in respect of any Québec tax returns) following the assessment of those returns.

Personal use items

When a taxpayer disposes of personal-use property that has an adjusted cost base or proceeds of disposition of more than CAD 1,000, capital gains or losses may be recognized. Capital gains must be reported from such dispositions. However, deductions are usually not available for capital losses unless the items disposed of belong to a restrictive class of assets known as “listed personal property”, which consists of artworks, coins, stamps, jewelry and rare folios, manuscripts, and books.

Gifts

There is no gift tax in Canada. However, income tax may arise on the gifting of capital property that has appreciated in value since it was acquired by the donor because the donor will be deemed, under Canadian tax rules, to have disposed of the capital property for proceeds equal to its fair market value on the date the gift is made. There are certain exceptions for gifts made to a spouse.

Also, rules pertaining to income splitting must be considered. In certain circumstances, if the item gifted is an income-producing asset or is used to purchase an income-producing asset, the income may be attributed back to the taxpayer. This is generally the case for gifts to a spouse and minor children and low-interest loans to non-arm’s length persons.

Non-resident trusts

Rules for non-resident trust expand the taxation of income earned by these trusts. If an offshore trust has a Canadian resident contributor, or a Canadian beneficiary and a contributor with nexus to Canada, the trust will be deemed to be a resident of Canada and will be subject to tax in Canada on its worldwide income and capital gains. At the same time, all Canadian-resident contributors and beneficiaries will be liable jointly for the tax liability of the trust.

2.11 Additional capital gains tax (CGT) issues and exceptions

Are there capital gains tax exceptions in Canada? If so, please discuss.

Pre-CGT assets

Capital gains were not taxed prior to 1 January 1972. Therefore, to eliminate any capital gains that accrued before 1972, transitional rules apply when a taxpayer disposes of a capital property acquired before 1972. The transitional rules allow the taxpayer to reduce the proceeds of disposition when a taxpayer calculates the capital gain on the disposition of a property.

Deemed disposal and acquisition

Where a taxpayer ceases to be resident in Canada at any particular time, the taxpayer is deemed by the Income Tax Act to have disposed of certain capital properties owned immediately before departure for proceeds equal to their fair market value on the departure date. The taxpayer is also deemed to have reacquired the property immediately after ceasing to be resident in Canada at a cost of the same amount. Ownership is to be interpreted in the broadest sense, in accordance with Canadian judicial interpretation, no matter where the property is located. However, for valuation purposes the fair market value in the country/jurisdiction or area of location of the property will usually govern.

Certain assets are exempt from this deemed disposition rule, such as interests in Canadian and most foreign pension plans, unvested restricted share units, unexercised stock options and Taxable Canadian Property. In addition, if the taxpayer was a resident of Canada no longer than 60 months during the 120 month period ending on their departure date, any assets owned when the taxpayer first became a resident and still owned at the time of departure will be exempt, as well as any assets inherited during the period if still owned by the taxpayer on the departure date.

A taxpayer who becomes a resident of Canada is deemed to have acquired at the time of becoming a resident each property owned at a cost equal to fair market value immediately before that time.

A capital gains exemption of up to CAD 1,016,836 may be claimed against capital gains arising from the disposition, on or after 1 January 2024 of the following types of properties:

- qualified small business corporation shares
- qualified farm property
- qualified fishing property
- a reserve brought into income, from any of the above.

A taxpayer must be a resident of Canada for tax purposes throughout the entire taxation year to be eligible to claim the capital gains exemption. Taxpayers who were only residents for part of the taxation year in question will also be considered to be qualifying residents if they were considered residents of Canada throughout the year preceding or subsequent to the year in question.

2.12 General deductions from income

What are the general deductions from income allowed in Canada?

Deductions permitted depend on amounts actually expended and substantiation of the expenditure is generally required.

Allowable deductions include the following.

- Union and professional dues
- Non-reimbursed business travel costs and other expenses of commissioned salespersons
- Non-reimbursed business travel costs and other expenses incurred where the individual is required to carry out the duties of employment away from the employer’s place of business
- Home office expenses where the space is used exclusively on a regular and continuous basis for the purpose of meeting customers or if the workspace is where the individual principally performs the duties of their employment and only to the extent of business income earned in the year and in following years
- Contributions made to private Canadian retirement savings plans known as “Registered Retirement Savings Plans” (RRSPs). RRSP contributions that qualify under the Act are deductible for any given year if they are made in that year or within 60 days after the end of that year and the total does not exceed the individual's contribution room for that year. Generally, the annual deduction for contributions to an RRSP is limited to the lesser of the following:
  - 18 percent of the individual’s earned income (i.e., employment, self-employment, and rental income subject to Canadian income tax) for the prior calendar year, or
  - the RRSP limit for the year (CAD 31,560 for 2024 and CAD 30,780 for 2023).

  The limit is reduced by certain pension adjustments to reflect employer and individual funding of other registered pension plans.

  This poses a problem for new residents of Canada earning substantial Canadian-sourced income in the year of arrival, as they are unable to contribute to an RRSP in the first year in order to reduce their taxable income. However, contributions can be made following departure from Canada for deductibility in the final reporting year or in a succeeding year. This is beneficial if there is substantial income to report in the year of departure or if there will be trailing Canadian source employment income (e.g., bonuses, stock option benefits, RSU benefits) that will be received in a subsequent year that will be required to be reported on a non-resident Canadian tax return and be subject to Canadian tax. Ineligible contributions may be subject to a penalty tax calculated at 1% for each month, or partial month, the ineligible contributions remain in the RRSP.

  The deduction limit may be higher if the individual has unused contribution room carried forward from previous years.

- Contributions made to Canadian Registered Pension Plans (these are employer sponsored pension plans registered with and monitored by the CRA).
- Contributions made to certain foreign employer sponsored pension plans that qualify under the provisions of certain bilateral tax conventions in force between Canada and various countries/jurisdictions (e.g., the United States, France, Germany, and The Netherlands) subject to the specific limitations imposed under the relevant convention and to the foreign pension plan being approved by the Competent Authorities of Canada and the other treaty partner.
- Childcare expenses (subject to certain limitations) if they were incurred to allow the taxpayer and spouse to work, carry on business, attend school full-time or part-time, or to carry on grant-funded research. In general, the lower net income (including zero income) spouse must claim the childcare expense. The deduction is limited to the lesser of the specified annual limit, which is based on the age of the child, and two-thirds of the relevant parent's "earned income", which consists of employment and self-employment income. Thus, if one of the spouses has no "earned income" in the relevant year, no deduction may be claimed for childcare expenses paid in that year, except in certain limited circumstances (e.g., the non-working spouse is attending a post-secondary education institution on a regular basis during the year).
- Interest, carrying charges, and investment counsel fees related to the earning of taxable investment income.
- Non-reimbursed moving expenses to and from a qualifying relocation (within Canada).
- Child support payments paid under a pre-1 May 1997 written agreement or court order.
- Periodic alimony payments made to a former spouse pursuant to a court order or written agreement.

2.13 Tax reimbursement methods

What are the tax reimbursement methods generally used by employers in Canada?

The following are the usual methods of recognizing tax reimbursements paid by the employer:

- current-year gross-up
- current-year reimbursement
- 1-year rollover.

A gross-up is not required in the year of departure but may be advisable in order to avoid having to file an income tax return in the year after departure.

2.14 Calculation of estimates/ prepayments/ withholding

How are estimates/prepayments/withholding of tax handled in Canada? For example, Pay-As- You-Earn (PAYE), Pay-As-You-Go (PAYG), and so on.

The withholding tax constitutes a payment towards an individual's tax liability and thus parallels the rates in the (progressive) individual income tax schedules. If an individual is taxable in respect of employment income, the payer has a withholding requirement. The CRA provides employers with tax-withholding tables prior to the start of each calendar year to calculate the amount of federal and provincial (excluding Québec) withholding taxes required on various types of payments (such as periodic and lump sum). Revenu Québec provides similar withholding tables for Québec provincial taxes. These tables are updated if there are any changes in the withholding rates during the relevant year.

When are estimates/prepayments/withholding of tax due in Canada? For example, monthly, annually, both, and so on.

Employers are required to report, withhold, and remit withholding tax each pay period unless a waiver of withholding tax has been issued by CRA (or by Revenu Québec in respect of Québec withholding tax).

An individual is required to make instalment payments if the difference between the tax payable and amounts withheld at source is more than CAD 3,000 in both the current year and either of the 2 preceding years (the instalments are calculated differently for an individual subject to federal and Québec tax).

Personal tax instalments, other than for the first year that an individual is required to make them, are paid quarterly and must be received by the CRA (or by Revenu Québec in respect of Québec provincial income taxes) no later than the 15th day of the last month in each quarter of the calendar year (i.e., on or before 15 March, 15 June, 15 September and 15 December).

For the first year an individual is required to pay only two instalments and those must be received by the relevant Canadian tax authority no later than 15 September and 15 December. Late remittance penalties will be applied on any instalments received after the relevant due date.

There are three possible ways to calculate the instalment amounts:

- The first method is to have the total instalments, paid in four equal payments, equal the taxes that are estimated will be owing for the year on sources of income not subject to withholding tax at source (that is, equal to the expected balance due amount at the end of the current year). However, instalment penalties will be charged if the estimated instalments are less than the lower of either the actual tax balance calculated on that year's tax return in excess of the total taxes withheld at source during the year or the instalments that would have been calculated under the second method described below
- The second method is to have the quarterly instalments paid for the current year equal the tax owing (after source withholdings) on the previous year's tax return.
- The third method is to have the March and June instalments equal to the total tax owing (after source withholdings) for the second prior year. The September and December instalments then have to make up the difference so that the total instalments paid for the year equal the amount determined in method two.

If the second or the third method is applied, the individual is not required to increase the instalments for the current year to reflect any increase in the individual's income for that year and may pay the balance of any remaining tax on or before the filing deadline for the tax return without incurring any penalties. The CRA will generally send taxpayers instalment reminder notices indicating the instalments due under method three, following the first tax year the taxpayers have a balance due on the filing of their tax returns that is in excess of CAD 3,000.

2.15 Relief for foreign taxes

Is there any Relief for Foreign Taxes in Canada? For example, a foreign tax credit (FTC) system, double taxation treaties, and so on?

The Income Tax Act and the Québec Taxation Act provide two mechanisms for the relief of double taxation:

- A credit for foreign tax paid to the source jurisdiction may be claimed on the Canadian tax return to reduce Canadian tax on foreign source income included in the net income reported on that return,
- In certain circumstances, an individual may claim a deduction against the net income reported on the individual's Canadian tax return for income taxes paid to the source jurisdiction in respect of foreign income included in that taxable income.

Additionally, Canada has negotiated international tax treaties with many countries/jurisdictions to prevent double taxation.

Foreign tax credits are calculated by each source country/jurisdiction, with separate computations for business and non-business income taxes paid. The allowable foreign tax credit cannot exceed the Canadian tax that would otherwise be payable on that category of income. Foreign tax credits on property income (other than real property) cannot exceed the lesser of 15 percent or the withholding rate provided in a relevant tax treaty (e.g., many of Canada's treaties provide a 10 percent rate on interest income) of the income received from the foreign property. Unused non-business foreign credits cannot be carried over to other years, but they may be claimed as a deduction if the foreign tax does not exceed the withholding rate specified under a tax treaty between Canada and the country/jurisdiction that levied the tax.

The Canada-US tax treaty provides relief against US tax for the non-creditable foreign tax on property income, as well as allows US taxes in excess of the withholding rate specified in the treaty to be deducted by US citizens on their Canadian tax returns. This provision does not apply to US Green Card holders who are residents of Canada.

Any unused foreign tax credits incurred in respect of foreign business income may be carried back 3 years and forward 10 years. Unused non-business taxes expire if they cannot be fully claimed as foreign tax credits for the relevant tax year.

2.16 General tax credits

What are the general tax credits that may be claimed in Canada? Please list below.

Non-refundable tax credits that may be claimed on a Canadian income tax return by a resident include (but are not limited to):

- basic personal amount
- spouse or common-law partner amount
- amount for an eligible dependent or child under 18
- amount for infirm dependents age 18 or older
- Canada Pension Plan (CPP) or Quebec Pension Plan (QPP) contributions
- Employment Insurance premiums
- Canadian employment amount
- home buyer's amount
- adoption expenses
- student loan interest
- pension income amount
- caregiver amount
- disability amount
- tuition, education, and textbook amounts (your own or amounts transferred from a spouse or child)
- amounts transferred from a spouse or common-law partner
- donations and gifts made to a registered Canadian charity or to a registered Canadian political party (donations made to US charities may also qualify, as provided by Article XXI of the Canada-US Tax Convention, depending on whether the taxpayer has sufficient US source income that is subject to Canadian income tax)
- eligible medical and dental expenses including private health insurance premiums paid by the taxpayer during any 12-month period ending in the relevant calendar year and that, in total, exceed the lesser of an annual limit (CAD 2,759 for 2024) and 3 percent of the taxpayer's net income reported on their Canadian tax return – the eligible expenses for the taxpayer's spouse and minor children may be added to those of the taxpayer in calculating the credit.

The applicable credits are generally calculated by applying the basic federal and relevant basic provincial or territorial rates to the eligible amounts identified above. Many of these amounts must be pro-rated for the year of arrival and for the departure year by the percentage obtained by dividing the total number of days the individual was a resident of Canada by the total number of days in the relevant calendar year.

Non-residents may only claim general tax credits for the following items, if relevant, unless 90 percent or more of their net income for the relevant calendar year is subject to Canadian income tax:

- Canada Pension Plan (CPP) or Quebec Pension Plan (QPP) contributions
- Employment Insurance premiums
- Donations made to a Canadian registered charity

2.17 Sample tax calculation

This calculation assumes a married taxpayer resident in Ontario, Canada with two minor children whose 3-year assignment begins 1 January 2022 and ends 31 December 2024. The taxpayer's base salary is 180,000 US dollars (USD) and the calculation covers 3 calendar years.

	2022 USD*	2023 USD*	2024 USD*
Salary	180,000	180,000	180,000
Bonus	30,000	40,000	50,000
Cost-of-living allowance	10,000	10,000	10,000
Housing allowance	12,000	12,000	12,000
Company car benefit	6,000	6,000	6,000
Moving expense reimbursement	20,000	0	20,000
Home leave	0	5,000	0
Education allowance	3,000	3,000	3,000
Interest income from non-local sources	6,000	6,000	6,000

*For simplicity, the **exchange rate used for the tax calculations is USD1.00 = CAD1.00.**

Other assumptions

- All earned income is attributable to local sources.
- Bonuses are paid at the end of each tax year and accrue evenly throughout the year.
- The company car is used for solely for commuting and for private purposes and originally cost CAD 25,000 – standby charge for each year is 2% X 12 months X CAD 25,000 = CAD 6,000.
- The employee pays all of the operating expenses for the automobile.
- The employee is a resident in Canada throughout the assignment.
- Tax treaties and totalization agreements are ignored for the purpose of this calculation.
- Spouse has no income.
- Moving reimbursements are of the nature that they are considered non-taxable in Canada.
- The employee is subject to CPP and EI (to illustrate the credits available).

Calculation of taxable income

Year-ended	2022 CAD	2023 CAD	2024 CAD
Days in Canada during year	365	365	365
Earned income subject to income tax			
Salary	180,000	180,000	180,000
Bonus	30,000	40,000	50,000
Cost-of-living allowance	10,000	10,000	10,000
Housing allowance	12,000	12,000	12,000
Company car	6,000	6,000	6,000
Moving expense reimbursement	0	0	0
Home leave	0	5,000	0
Education allowance	3,000	3,000	3,000
Total earned income	241,000	256,000	261,000
Investment income	6,000	6,000	6,000
Total income	247,000	262,000	267,000

[1]Sample calculation generated by KPMG LLP, a Canada limited liability partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative (“KPMG International”), a Swiss entity.

03

Special considerations for short term assignments

3 Special considerations for short-term assignments

For the purposes of this publication, a short-term assignment is defined as an assignment that lasts for less than 1 year.

3.1 Residency rules

Are there special residency considerations for short-term assignments

Individual are deemed under the Income Tax Act to be residents of Canada for income tax purposes if they are physically present in Canada for 183 days or more during a tax year, and they are not otherwise residents of Canada (also referred to as the “sojourning” or “183-day” rule).

However, if the individuals are primarily residents of another jurisdiction that has a tax treaty with Canada and, under the residency tie-breaker rules in that treaty, the individuals are primarily resident in that other jurisdiction, they will be deemed, under a specific rule in the Income Tax Act, to be a nonresident of Canada for tax purposes regardless of the sojourning rule described above or the other Canadian domestic residency rules. The Québec Taxation Act does not have a similar rule for Québec provincial tax purposes.

3.2 Payroll considerations

Are there special payroll considerations for short-term assignments?

Employers, whether they are residents or nonresidents of Canada, are required to withhold and remit Canadian taxes with respect to all amounts characterized as employment income earned in Canada, even if those amounts are exempt from Canadian income tax under the provisions of an applicable income tax convention, unless a formal waiver letter has been obtained from the CRA. Identical Québec provincial withholding requirements apply to compensation earned by employees working in the province of Québec unless a formal waiver is obtained from Revenu Québec.

Employers who fail to obtain waivers or to withhold taxes from Canadian source compensation are liable to pay those taxes themselves in addition to penalties (which range from 10 percent to 20 percent) and arrears interest that may be assessed on those taxes.

Non-residents need to declare their status when completing Form TD1 “Personal Tax Credits” to determine the correct amount of payroll withholdings. If less than 90 percent of the non-resident’s worldwide income for the relevant calendar year will be included when determining taxable income earned in Canada, the non-resident is not entitled to certain tax credits allowed for residents in calculating withholding tax.

3.3 Taxable income

What income will be taxed during short-term assignments?

If the individual on a short-term assignment is considered a deemed resident for taxation purposes because the individual was physically present in Canada for more than 182 days during the calendar year and was unable to claim the benefit of the residency tie-breaker rules in a tax treaty between Canada and their home country/jurisdiction, the individual:

- must file a Canadian income tax return for that tax year
- must report worldwide income (income from all sources, both inside and outside Canada) for the entire tax year
- is subject to federal tax and provincial or territorial tax on the above income
- may claim a foreign tax credit for any taxes paid to a foreign jurisdiction in respect of any income from that jurisdiction that is subject to Canadian tax
- can claim all deductions and non-refundable tax credits that applies to them.

If the individual is considered to be a non-resident of Canada for taxation purposes, then only employment and self-employment income earned from performing services within Canada, gains realized from the sale of Canadian Taxable Property and any investment income, except for most types of interest, received from Canadian sources will be subject to Canadian taxes.

An employee who works at a special work site may have certain benefits that can be excluded from their income. These benefits include:

- reasonable allowances for, or the value of, free board and lodging provided by the employer at the special work site
- reasonable allowances for, or a reimbursement of, transportation expenses received for transportation to and from the employee's principal place of residence, which must be a self- contained domestic establishment and may be outside Canada.
- Certain conditions must be met to qualify for excluding benefits based on the special work site rules. These conditions include the following.
  - The individual is required to work at a special work site on a temporary basis (see commentary below).
  - The individual's principal place of residence (his/her original home) must be available for their use throughout the period and not rented out.
  - The residence must be too far from the special work site for daily commuting.
  - The individual is required to be away from their ordinary residence, or at the special work site, for at least 36 hours.

The term "temporary" refers to the duration of duties performed by the individual employee rather than the project as a whole. The length an assignment may last and still qualify for the special work site exclusion is not defined in the Income Tax Act. However, as a general rule, duties will be considered by the CRA to be of a temporary nature if it reasonably can be expected, at the assignment's outset that they will not continue beyond 2 or 3 years.

Subsequent extensions of the assignment may still qualify for the special work site exemptions, but this issue should be reviewed each year to assess whether to continue claiming the exemption.

3.4 Additional considerations

Are there any additional considerations that should be considered before initiating a short-term assignment in Canada?

Employees should obtain proper work permits and immigration clearance before working in Canada.

04

Other taxes and levies

4 Other taxes and levies

4.1 Social security tax

Are there social security/social insurance taxes in Canada? If so, what are the rates for employers and employees?

Canada has an extensive social security system that confers benefits for disability, death, family allowances, medical care, old age, sickness, and unemployment. These programs are mainly funded through wage and salary deductions and employer contributions.

An employee's responsibility is comprised of two parts: Canada Pension Plan (CPP) (or the Québec Pension Plan for employees working in Québec) and Employment Insurance (EI). Contributions made by an employee to CPP, QPP or EI are creditable against that individual's federal and provincial income tax liability. The credits are calculated at the lowest federal and provincial tax rates.

Canada Pension Plan/Quebec Pension Plan

CPP contributions are required to be deducted from an individual's remuneration if the individual is employed in Canada, aged from 18 to 70, and receiving pensionable earnings. The employer is responsible for withholding and remitting the individual portion and a matching employer portion to the CRA, or to Revenu Québec in regard to QPP contributions.

The maximum employer and employee contributions to the CPP for 2024 are each CAD 3,868.

Individuals residing in Québec contribute to the Québec Pension Plan (QPP) instead of the CPP.

The maximum employer and employee contributions to the QPP for 2024 are each CAD 4,348.

Employment insurance

Employment Insurance ("EI") is a federal payroll tax required to be deducted from an individual's remuneration if the individual is employed in Canada and is receiving insurable employment earnings. There is no age limit for deducting EI premiums. Like the CPP contribution, the employer is responsible for withholding and remitting the individual's portion as well as remitting the employer portion (1.4 times the individual contribution) to the tax authorities. The maximum employee contribution for 2024 is CAD 1,049 and the corresponding maximum employer contribution is CAD1,469.

Individuals residing in Québec contribute a reduced El amount (2024 maximum of CAD 834 per employee and a maximum employer premium of CAD 1,168). However, they must also contribute to the Québec Parental Insurance Premium plan (QPIP). The maximum contributions to QPIP for 2024 are CAD 464 for the employee and CAD 650 for the employer. EI premiums are remitted to the CRA and QPIP premiums are remitted to Revenu Québec.

CPP and EI premiums are assessed based on employment and (for CPP only) self- employment earnings and the rates are adjusted each year based on actuarial calculations prepared by the federal government. QPP and QPIP premiums are also assessed on earnings and the rates are adjusted each year based on actuarial calculations prepared by the Québec government.

Canadian Social Security Tax Rates for 2024

Type of social security tax	Paid by employer	Paid by employee	Total
Canada Pension Plan	5.95%	5.95%	11.90%
Employment Insurance	2.32%	1.66%	3.98%
Total	**8.27%**	**7.61%**	**15.88%**
Québec Pension Plan	6.40%	6.40%	12.80%
Employment Insurance (Quebec residents)	1.32%	1.85%	3.17%
Québec Parental Insurance Premiums	0.692%	0.494%	1.186%
Total for Québec Residents	**8.412%**	**8.744%**	**17.156%**

4.2 Gift, wealth, estate, and/or inheritance tax

Are there any gift, wealth, estate, and/or inheritance taxes in Canada?

There is no gift tax in Canada. However, income tax may arise since the assets gifted are treated as being disposed of at fair market value. There are certain exceptions for gifts to a spouse.

Rules pertaining to income splitting must also be considered. In certain circumstances, if the item gifted is an income-producing asset or is used to purchase an income-producing asset, the income is attributed back to the taxpayer. This is generally the case for gifts to the spouse and minor children and low-interest loans to non-arm's length persons.

No federal or provincial estate tax or inheritance tax is imposed in Canada. However, to the extent that a Canadian resident has accrued capital gains or losses, these will be realized on death. For income tax purposes, an individual is considered to have disposed of capital property at its fair market value on the date of death. Taxable capital gains may result, but provisions exist to enable a surviving spouse or other specified beneficiaries to inherit the original cost base and thereby defer recognition of the gain. Appropriate planning is required to obtain this result.

Non-resident individuals may be subject to Canadian tax on death to the extent that they own Taxable Canadian Property (TCP). The most common types of TCP affected by the deemed disposition on death are Canadian real estate and shares in a private corporation owning real estate in Canada.

There is no wealth tax in Canada.

Although there is no estate or inheritance tax per se, many provinces charge a probate fee to validate the deceased's will and confirm the authority of the estate's executor or, where no will exists, distribute the assets of the estate according to provincial family law. The probate fee is generally applied to the fair market value of the assets flowing through the will.

Planning opportunities exist to help minimize the tax through joint ownership, trusts, designation of beneficiaries, and other means.

Real estate tax

Are there real estate taxes in Canada?

The sale or other transfer of real estate (including the transfer of shares in real estate companies) is subject to a real estate transfer tax imposed by the province or territory where the real estate is located and collected on the registration of the change in title. Rates vary among provinces. Both the province of Ontario and the province of British Columbia impose an additional 20% land transfer tax on nonresidents of Canada who acquire real properties located within specified areas in each province, although exemptions may be available.

Municipalities levy annual property taxes on residential, commercial, and industrial real estate at varying rates that are generally based on the properties' assessed values.

In addition, the Canadian government passed legislation to prohibit non-Canadians from acquiring non-recreational residential properties in Canada for a period of two years effective January 1, 2023, subject to a few exceptions.

Tax on Vacant and Underused Residential Properties

The Canadian government has advanced legislation for a new 1% "Underused Housing Tax" ("UHT") that came into effect on January 1, 2022. This new tax will require nonresident owners of residential property located in Canada to file annual UHT returns with the CRA, staring with tax year 2022, for each residential property they own and pay a tax of 1% of the property's fair-market-value assessment by April 30th following the end of the reporting year if the property was vacant or occupied for less than a minimum period during the reporting year. Exemptions from the UHT include nonresident owners who are citizens or permanent residents of Canada, owners who meet a minimum "qualifying occupancy" test by living in the property for periods of at least one month for a total period of at least 180 days during the reporting year.

The city of Vancouver introduced a vacant home tax in 2017 applicable at a rate of 5% (for 2023 and onwards) of the fair market value of vacant and underused residential properties located within the city's boundaries. This was followed by the province of British Columbia's enactment in 2018 of a regional tax calculated at rates running from 0.5% to 2% (with the 2% rate applicable to foreign owners and satellite families) on the fair market value of vacant and underused residential properties located within specified areas of B.C. Effective January 1, 2022, the city of Toronto and the city of Ottawa have imposed a 1% tax on the fair market value of vacant and underused residential properties located within each city's boundaries. Other municipalities have also considered the vacant home tax for future years (e.g. the city of Hamilton is developing the final framework for VHT payable starting in 2024).

The fair market value of the properties for the purpose of calculating the various vacant and underused taxes is usually based on the higher of the most recent property assessment for the subject property or its purchase price. While each tax has its own set of rules and exemptions, it is possible that multiple taxes can be assessed on a single property. Since these taxes are based on the fair-market-value assessment and not income, these taxes can represent a significant cost to residential homeowners that are subject to the taxes. Individuals who own residential real estate and will be absent from Canada (e.g., on international assignment) will need to understand these rules, and particularly the exemptions, and determine whether they are able or willing to make arrangements that can allow them to meet the exemptions.

4.3 Sales/VAT tax

Are there sales and/or value-added taxes in Canada?

Canada levies a federal goods and services tax (GST) which is a value-added tax that applies to most goods and services in Canada. The GST rate is 5 percent.

Five provinces (Ontario, New Brunswick, Nova Scotia, Prince Edward Island, and Newfoundland and Labrador) have harmonized their provincial sales taxes with the GST to create the harmonized sales tax (HST). The HST generally applies to the same base of taxable goods and services as the GST. The HST rate is 13 percent in Ontario and 15 percent in New Brunswick, Nova Scotia, Prince Edward Island, and Newfoundland and Labrador.

In addition to the regular registration rules that apply to a Canadian or non-Canadian entity, Canada has introduced various new GST/HST registration and collection rules for non-resident businesses and platform operators related to supplies of services, intangibles, and goods effective July 1, 2021.

Canada has enacted a new luxury tax of 10 to 20 percent that will apply to certain new personal aircrafts, boats, and luxury vehicles effective September 1, 2022.

Three provinces (British Columbia, Saskatchewan, and Manitoba) have a provincial sales tax (PST) that generally applies to the sale of goods, and in some cases, intangibles, services, and insurance contacts. The PST is not a value added tax and is not recoverable. The general PST rates range from 6 percent to 7 percent (up to 20 percent on certain goods).

British Columbia has introduced new PST registration and collection rules for marketplace facilitators as of July 1, 2022, as well as for many businesses outside the province (Canadian and foreign businesses) effective April 1, 2021. Saskatchewan has PST registration and collection obligations for various businesses outside the province (Canadian and foreign businesses) as well as marketplace facilitators and sellers. Manitoba has adopted new PST registration and collection obligations for online sale platforms that apply effective December 1, 2021.

In addition, the province of Québec applies the provincial Québec Sales Tax (QST) on most goods and services at a rate of 9.975 percent. The QST is also a value-added tax and applies generally the same way as the GST/HST. However, Québec has implemented in 2019 and in 2021 new QST rules that require certain suppliers of services, intangibles, and goods, located outside Québec, as well as platform operators, to register under either a new simplified QST registration system or the regular QST registration system and collect QST.

In addition to the GST/HST, QST, and PST, some provinces also levy special unrecoverable taxes on certain specific goods and services such as alcohol, fuel, tobacco, and insurance.

4.4 Unemployment tax

Are there unemployment taxes in Canada?

Employment Insurance (EI) premiums are required to be deducted from an individual’s remuneration if the individual is employed anywhere in Canada and is receiving insurable earnings (generally consists of cash remuneration and certain taxable benefits). There is no age limit for deducting EI premiums. The employer is responsible for withholding and remitting the individual’s portion as well as remitting the employer portion (1.4 times the employee’s contribution) to the CRA. The employee’s premiums are reported on their T4 statement for the relevant calendar year and a portion of those premiums may be claimed as a non-refundable credit on the employee’s Canadian tax return.

4.5 Other taxes

Are there additional taxes in Canada that may be relevant to the general assignee? For example, customs tax, excise tax, stamp tax, and so on.

Other Canadian taxes that may apply are described in the following paragraphs.

Local taxes

Municipal tax (property tax) is assessed on the owner of real property according to the value of the property (generally, the tax is in the range of 1 percent to 2 percent of the property's assessed value per year). The rates vary among municipalities.

Provincial Health Premiums

Although these are not actual income taxes, the province of Ontario and the Northwest Territories and the Territory of Nunavut levy provincial health premiums on the income of individuals who are subject to income tax in those jurisdictions.

Residents of Ontario are required to pay a Provincial Health Premium as part of their Ontario tax liability, based on their taxable income over CAD20,000 (maximum annual premium is CAD900). The Ontario health premiums are calculated and added to the provincial income taxes calculated on the tax returns of individuals who are residents, or part-year residents, of that province.

Employees who live and/or work in either Nunavut or the Northwest Territories are subject to a Health Tax equal to 2 percent of their taxable remuneration earned from working in either of those two territories, and their employers are responsible for deducting and remitting the health taxes.

Employer Health Tax

The following provinces and territories impose a tax on employers based on the total annual salaries earned by their employees who report to work, or are deemed to report for work, at an office or other permanent location of the employer located within the relevant jurisdiction:

Province/Territory	Maximum EHT Rate
Ontario	1.95% (See note 1 below)
Québec	4.26% (See note 2 below)
British Columbia	1.95% (See note 3 below)
Manitoba	2.15% (see note 4 below)
Newfoundland and Labrador	2.00% (see note 5 below)

The relevant provincial EHT legislation requires an employer to include the salary of any non- resident employee earned from working in the province with the salaries of the employer's regular employees who report for work there, even when there is no chargeback to the Canadian company for that salary. The EHT is remitted to the relevant provincial or territorial authority responsible for administering this tax.

1 The Ontario Employer Health Tax annual rates vary from 0.9 per cent on Ontario payrolls that are less than CAD 200,000 up to 1.95 per cent for payrolls that are in excess of CAD 400,000, after first reducing the gross payroll amount by the annual exemption of CAD 1 million.

2 The Québec Health Services Fund's annual tax's annual rates vary from 1.65 per cent (1.25 per cent for employers whose total payroll is more than 50 per cent attributable to activities in the primary and manufacturing sectors) on the first CAD 1,000,000 or less to a maximum rate of 4.26 per cent on annual salaries greater than CAD 6,999,999.

3 The British Columbia Employer Health Tax became effective from 1 January 2019 onwards. Annual BC payrolls that total CAD 500,000 or less are exempt from this tax. Annual BC payrolls of CAD 500,000 to CAD 1,500,000 are subject to EHT at 2.925 percent on the portion that exceeds CAD 500,000. If the annual BC payrolls exceeds CAD 1,500,000, the entire payroll amount for the year is subject to an EHT levy of 1.95 percent with no portion being exempt.

4 For Manitoba, the first CAD 2.25 Million of annual payroll is exempt from Health Tax and the next CAD 2.25 million is subject to a levy of 4.3 percent. However, if the employer's total payroll in the province exceeds CAD4.50 million, the entire total payroll in Manitoba is subject to a levy of 2.15 percent, including the first CAD 2.25 million.

5 Effective from 1 January 2019 onwards, the first CAD 1.3 million of an employer's total payroll is exempt from the Newfoundland and Labrador Payroll Tax. The portion of an employer's annual salary in excess of the exemption amount is subject to the Health and Post-Secondary Education Tax at a rate of 2.00 per cent.

Foreign Financial Assets

Is there a requirement to declare/report offshore assets (e.g., foreign financial accounts, securities) to the country/jurisdiction's fiscal or banking authorities?

Canadian residents are required to file the following information returns, in addition to their personal income tax returns, if they:

- own "specified foreign property" (generally, foreign bank and securities accounts, investments in foreign corporations, partnerships and trusts and interests in foreign real estate, except when used solely for recreational purposes by the taxpayer), the total cost of which exceeds CAD100,000 at any time in the tax year (Form T1135)
- transfer or loan any amount, directly or indirectly, to a non-resident trust or to a controlled foreign affiliate of a non-resident trust (Form T1141)
- receive distributions from, or are indebted to, non-resident trusts in which they are beneficially interested (Form T1142) or
- have ownership in a non-resident corporation or trust that is a foreign affiliate or a controlled foreign affiliate (Form T1134).

The deadline for filing these annual information returns is generally the same as for the individual's Canadian tax return. Failure to file any of these information returns on a timely basis may result in the assessment of penalties of up to CAD 2,500 per each return.

A taxpayer is exempt from having to file a T1134, T1135, T1141 or a T1142 in the first year of becoming a resident of Canada provided the taxpayer was never a Canadian resident in any prior year.

05

Immigration

5 Immigration

Following is an overview of the concept of Canada's immigration system for skilled labour.

(E.g., which steps are required, authorities involved, in-country/jurisdiction and foreign consular processes, review/draft flow chart illustrating the process)

This summary provides basic information regarding business visits to, and work authorization for, Canada. This information is of a general nature and should not be relied upon as legal advice.

All foreign nationals who intend to engage in productive employment in Canada will need a Work Permit. There are various work permit categories available depending on the foreign national's qualifications and the nature of the work, which vary in their processes and processing times. All foreign nationals who intend to engage in international business activities without directly entering the Canadian labor market may enter Canada as business visitors. For work permit and business visitor applications, foreign nationals must coordinate with their employer to collect and legalize corporate and personal documentation.

Canada distinguishes between visa-requiring nationals and visa-exempt nationals for entry purposes.

All foreign nationals require a Temporary Resident Visa ("TRV") to enter Canada unless their citizenship is of a visa-exempt country/jurisdiction. For example, nationals of China, India, Russia, and South Africa require a TRV, while British, Australian, French, and Japanese nationals are visa exempt. A TRV is an entry document, separate from a status document such as a work permit. A visa-requiring national – even if they have a valid status document – will not be granted entry to Canada unless they have a valid TRV.

Visa-exempt nationals, other than citizens of the United States, require an Electronic Travel Authorization (eTA) for travelling to Canada by air. The eTA application is made online and the approval is linked to a specific passport. Normally, the eTA is approved immediately, unless there are potential inadmissibility issues that require additional review.

In most cases foreign nationals are also required to give biometrics if entering Canada to work, study or visit. Biometric data is used to confirm a foreign national's identity. Biometrics are required by visa-exempt and visa requiring nationals between the ages of 14 and 79. For visa-exempt nationals, biometrics may be done at the port of entry. For visa-requiring nationals, biometrics must be completed abroad. Biometrics are valid for a period of up to 10 years.

In order to enter Canada, foreign nationals must not have criminal or medical inadmissibility issues. Additionally, nationals of certain countries/territories are required to provide police clearance certificates. Police clearance certificates are a copy of a foreign national's criminal record, or a statement that the foreign national does not have a criminal record. Further, an immigration medical examination may be required if an individual has lived in certain countries/territories for more than six months in the past year and will be in Canada for more than six months or will be working in specific occupations, such as in the healthcare or education sectors.

5.1 International Business Travel/Short-Term Assignments

Describe (a) which nationalities may enter Canada as non-visa national, (b) which activities they may perform and (c) the maximum length of stay.

A business visitor is a foreign national who comes to Canada for international business activities without directly entering the Canadian labour market. These activities may include attending internal meetings, attending conferences, developing new business, receiving intra-company training, etc. A business visitor is not authorized to perform any "hands-on", productive activities while in Canada.

In order to qualify as a business visitor, the traveler must maintain their position with the foreign employer and should not be paid by the Canadian parent or subsidiary for more than expenses. Under this category, travelers may stay for 6 months from the date of entry, or until the passport expiry – whichever comes first.

Visa-exempt nationals may seek entry directly at the port of entry with proper supporting documentation.

Other than American citizens, visa-exempt nationals must obtain an Electronic Travel Authorization (eTA) in order to enter Canada by commercial airlines.

Describe (a) the regulatory framework for business traveler being visa nationals (especially the applicable visa type), (b) which activities they may perform under this visa type and the (c) maximum length of stay.

A business visitor is a foreign national who comes to Canada for international business activities without directly entering the Canadian labour market. These activities may include attending internal meetings, attending conferences, developing new business, etc. A business visitor is not authorized to perform any "hands-on", productive activities while in Canada. In order to qualify as a business visitor, the traveler must maintain their position with the foreign employer and should not be paid by the Canadian parent or subsidiary for more than expenses.

Under this category, travelers may stay for 6 months from the date of entry, or until the passport expiry – whichever comes first. Visa-required nationals must submit a Temporary Resident Visa ("TRV") application at a Canadian Visa Office abroad. A TRV may be issued for up to 10 years and allows multiple entries; however, upon each entry, a foreign national is allowed to stay in Canada for up to 6 months, unless otherwise noted by the Immigration Officer.

Outline the process for obtaining the visa type(s) named above and describe (a) the required documents (including any legalization or translation requirements), (b) process steps, (c) processing time and (d) location of application.

Business Visitor Visa Applications Processed at a Canadian Visa Office Abroad

1 Assessment call or assessment e-mail with foreign national to determine strategy
2 Gather documents from foreign national for business visitor visa application
3 Prepare business visitor visa application (5 days)
4 Submit business visitor visa application at the Canadian Visa Office Abroad (processing times vary)

Business Visitor Visa Applications Processed at the Port of Entry

1 Assessment call or assessment e-mail with foreign national to determine strategy
2 Gather documents from foreign national for business visitor visa application
3 Prepare business visitor application (5 days)
4 Submit business visitor visa application at the Port of Entry –

General requirements for business visitors

The following documents need to be provided in either English or French:

- Valid passport or travel document that is valid for the applicant's entire stay in Canada and guarantees their re-entry to their country/jurisdiction of origin
- TRV (if applicable)
- eTA (if applicable)
- Letters of support from parent company and a letter of invitation from the Canadian host business or a Letter of Recognition from Canada Border Services Agency (CBSA);

- Agenda of meetings and business activities during time in Canada
- Established purpose for the visit (i.e., Letter of Invitation (LOI) from the Canadian company); 24-hour contact details of the business host in Canada and
- Proof of sufficient funds for both the stay in Canada and return to country/jurisdiction of origin.

Are there any visa waiver programs or specific visa categories for technical support staff on short-term assignments?

Under Canada's Global Skills Strategy, certain high-skilled foreign nationals may be eligible for a short-term work permit exemption to work in Canada. Specifically, the technical support staff must be in high-skilled professional occupations. The work duration must be less than 15 or 30 consecutive calendar days. The 15-day exemption is available to an individual once every 6 months, and the 30-day exemption once every 12 months.

5.2 Long-Term Assignments

What are the main work permit categories for long-term assignments to Canada? In this context outline whether a local employment contract is required for the specific permit type.

Canadian work permits are typically employer-specific, such that the foreign worker may only work for that particular employer in Canada under specific conditions. If the foreign national is visa- exempt, the work permit application can be made at the port of entry, e.g., the airport or land border. If the foreign national requires a TRV, the application must be submitted online to a Canadian Visa Office abroad. The TRV will be issued together with a work permit approval letter. The actual work permit is printed at the port of entry.

Overview of Applying for a Work Permit in Canada

As a default rule, a Canadian employer seeking to hire a foreign national must first obtain a positive Labour Market Impact Assessment ("LMIA") opinion from Employment and Social Development Canada ("ESDC"). A positive LMIA will show that there is a need for a foreign worker to fill the job, and that no Canadian worker is available to do the job. The employer, in most cases, needs to conduct rigorous recruitment efforts and demonstrate that there are no qualified and willing Canadians or permanent residents to fill the position. ESDC must be satisfied that the employment of the foreign national will have a positive or neutral impact on the Canadian labour market. Once ESDC issues a positive LMIA opinion to the employer, the foreign national can then apply for a work permit either at the port of entry or a visa office abroad. The LMIA application preparation and review process can be fairly lengthy and unpredictable.

In June 2017, EDSC and Immigration, Refugees and Citizenship Canada (IRCC) introduced a secondary stream of the LMIA program – the Global Talent Stream. This stream is intended to offer a responsive and predictable option for Canadian employers to access highly skilled global talent. Specifically, innovative companies can be referred to ESDC to make applications to hire "unique and specialized" foreign nationals. In addition, this stream facilitates employers with filling in-demand highly skilled positions that are on the Global Talent Occupations List. The current list primarily includes occupations in the IT sector, such as computer programmer, information systems analyst, and web developer. However, in December 2022, the list was updated to include additional occupations such as civil engineers, electrical and electronics engineers, mining engineers, etc. This list is amended from time to time, as the government engages in ongoing stakeholder discussions.

There are various exemption categories to the LMIA, which are administered under the International Mobility Program. The Canadian employer must first submit an offer of employment through its online Employer Portal and pay a compliance fee. Of particular relevance for multinational corporations are the intra-company transfer exemption categories.

For multinational corporations, the intra-company transfer categories are available for executives/senior managers and for workers who have specialized knowledge. To be eligible, the foreign and Canadian entities must have a qualifying corporate relationship and the employee must have been employed abroad for at least 1 year in the preceding 3 years and will be transferred to Canada in a similar position. In particular, to demonstrate specialized knowledge, the employee must have both proprietary knowledge and an advanced level of expertise. Proprietary knowledge generally refers to company-specific expertise related to a company's product or services, or the enterprise's processes and procedures such as its production, research, equipment, techniques, or management. An advanced level of expertise means that the specialized knowledge is gained through significant and recent experience with the organization and used by the individual to contribute significantly to the employer's productivity.

There are certain LMIA-exempt work permit categories made available by Free Trade Agreements between Canada and various countries/territories. For example, under the Canada-United States- Mexico Agreement (CUSMA, formerly known as NAFTA), US and Mexican citizens can work temporarily in Canada if their occupation is on the specified Professionals list and that they meet the education requirements specified for the profession. Similarly, the Canada-South Korea Free Trade Agreement, Canada-Chile Free Trade Agreement, and others, offer similar work permit categories. Furthermore, the recent Comprehensive Economic and Trade Agreement between Canada and the European Union (CETA) provides for various options for EU nationals to work temporarily in Canada. Similarly, the latest Comprehensive and Progressive Agreement for Trans- Pacific Partnership (CPTPP) also includes professional mobility provisions and provides for work permit options to nationals of the CPTPP parties to work in Canada.

As mentioned above, visa nationals are required to obtain a Temporary Resident Visa in order to enter Canada. Visa-exempt nationals, other than American citizens, require an Electronic Travel Authorization (eTA) to enter Canada by commercial airlines. The eTA must be obtained prior to travel. Biometrics must also be completed before the work permit issuance.

Provide a general process overview to obtain a work and residence permit for long- term assignments (including processing times and maximum validation of the permit).

Work Permits Processed at a Canadian Visa Office Abroad

1. Gather documents
2. Undergo a medical examination from a panel physician (if required)
3. Obtain police certificates (if required)
4. Submit work permit application to a Canadian Visa Office (processing times vary). High- skilled applications are typically processed in 2 weeks in 80 percent of cases; however, these timelines are subject to change without notice. Since COVID-19, processing times are subject to greater fluctuation.
5. Attend in-person at a local Visa Application Center to provide biometrics data (fingerprints and photograph)
6. Submit passport to the Visa Office for visa issuance. It typically takes 1 to 3 weeks for a visa to be stamped in a foreign national's passport
7. Travel to Canada and obtain Work Permit document at the port of entry

Work Permits Processed at the Port of Entry

1. Gather documents
2. Undergo a medical examination from a panel physician (if required)
3. Obtain police certificates (if required)
4. Submit work permit application in person at the Port of Entry (processed immediately)
5. Provide biometrics data (fingerprints and photograph) in person at the port of entry
6. Work Permit document issued immediately

Depending on the work permit type, the maximum validity is 3 years with the possibility of renewing the permit.

Is there a minimum salary requirement to obtain a long-term work and residence permit for assignments? Can allowances be taken into account for the salary?

There are minimum wage requirements for certain work permit categories, such as the Labour Market Impact Assessment and Intra-Company Transfer: Specialized Knowledge Workers. Generally, employers must pay foreign nationals wages that meet the “prevailing wage” for the specific occupation in a particular location. For example, if the prevailing wage for a computer engineer in Toronto, Ontario is CAD $45.00 per hour, then the employer must meet that prevailing wage when paying the foreign national. The prevailing wage levels are prescribed by ESDC based on labour market surveys conducted by Statistics Canada. The prevailing wage levels may be adjusted on a yearly basis.

Is there a fast-track process which could expedite the visa/ work permit?

As part of the Global Skills Strategy (GSS), certain highly skilled foreign nationals applying for work permits outside Canada are eligible for a 2-week (14 calendar days) processing period. This expedited processing time is not available to everyone and is only available to certain highly skill foreign nationals. However, since COVID-19, processing times are subject to change without notice and may be delayed as a result of significant backlog being faced by IRCC.

Legal counsel across Canada continues to monitor processing times to ensure that work permit applicants have the most up-to-date information.

At what stage is the employee permitted to start working when applying for a long-term work and residence permit (assignees/ local hire)?

The employee is permitted to start working only once they have obtained a valid Canadian work permit.

Can a short-term permit/ business visa be transferred to a long-term permit in Canada?

It is not possible to transfer from business visitor status to a long-term work permit holder status. If a foreign national has entered Canada as a business visitor, it is not possible to transfer this status to a work permit. Typically, a work permit must be made outside of Canada.

Visitor to Worker Public Policy Visitors who are currently in Canada since August 24, 2020, have remained in Canada, and have a valid job offer can apply for an employer-specific work permit. If approved, visitors can receive a work permit without having to leave the country. This policy, which is in place until February 28, 2025 supports employers in Canada who continue to face difficulties finding the right talent, as well as temporary residents who wish to contribute their talent and skills to Canada’s recovery from the COVID-19 pandemic.

To be eligible, a foreign national must:

- have valid status in Canada as a visitor on the day they apply;
- have submitted an employer-specific work permit application; have remained in Canada with status since their work permit application is submitted and intend to remain in Canada throughout the period during which their work permit application is being processed;
- submit an application for a work permit on or before February 28, 2025; and
- meet all other standard admissibility criteria.

Is it possible to renew work and residence permits?

The majority of the work permit categories allow renewals, although the total validity duration varies. If the foreign national is in Canada with a valid work permit, they may apply to extend the permit from within Canada.

Is there a quota or system or a labour market test in place?

There is a labour market test process, but there is no quota per se. As a default rule, a Canadian employer seeking to hire a foreign national must first obtain a positive Labour Market Impact Assessment ("LMIA") opinion from Employment and Social Development Canada ("ESDC"). The employer, in most cases, need to conduct rigorous recruitment efforts to demonstrate that there are no qualified and willing Canadians or permanent residents to fill the position. ESDC must be satisfied that the employment of the foreign national will have a positive or neutral impact on the Canadian labour market.

5.3 General Immigration Related Questions

Would it be possible to bring family members to Canada?

Generally, family members (spouse and minor children) may accompany a foreign worker in Canada. They are eligible to obtain visitor status for the duration of their stay in Canada. Entry requirements such as a TRV or eTA, biometrics and criminal and medical admissibility assessments, apply to all accompanying family members.

A dependent spouse is typically eligible for an open work permit and can work for any employer in any occupation. A medical exam is required if the work is in healthcare, childcare, or similar fields. A dependent minor child is eligible to attend primary and secondary school in Canada with a Visitor Record or a Study Permit. Effective January 30, 2023, IRCC has issued a two-year temporary public policy that allows dependent children to also obtain an open work permit. A dependent's status document will be valid for the same duration as the foreign worker's work permit.

The Government of Canada expanded the definition of an 'Immediate Family Member' to include the following:

- the spouse or common-law partner
- the dependent children of the person or of the person's spouse or common-law partner
- any dependent children of a dependent child
- parents or stepparents
- parents or stepparents of the spouse or common-law partner
- guardians or tutors
- Guardians and tutors are individuals who are responsible for caring for a foreign national minor who is living apart from a parent for an extended period of time, for example to attend a secondary school in Canada. The guardian or tutor should be able to demonstrate that they habitually reside at the same address as the minor. Officers should be flexible in accepting documentary evidence.

.

The Government of Canada has also expanded the definition of 'Extended Family Members'. More information can be found here: https://www.canada.ca/en/immigration-refugees-citizenship/services/coronavirus-covid19/visitors/immediate-family.html

Open Work Permits for Spouses of Students

iRCC announced that it will be amending the eligibility for open spousal work permits for spouses of international students in 2024. Open work permits are expected to only be available to spouses of international students in master's and doctoral programs. The spouses of international students in other levels of study including undergraduate and college programs, will no longer be eligible for an open work permit. More information is expected to be released in 2024. Is it possible to obtain a permanent residence permit?

Generally, there are four programs under which foreign workers can apply for Canadian permanent resident status:

1 Federal Skilled Worker Program (FSWP)
2 Canadian Experience Class (CEC)
3 Provincial Nominee Programs (PNP) or
4 Quebec Experience Class (QEC).

High net worth candidates and entrepreneurs can also consider programs such as the Start-Up Visa or Self-Employed Class to obtain permanent residence in Canada.

What if circumstances change after the Work and Residence application process (e.g., change of employment or personal situation, including job title, job role or salary)?

Any change in the terms of the employment, including job title, job role or salary may require a new work permit, in order to ensure compliance.

How long can a permit holder leave Canada without their permit becoming invalid?

The duration and validity of a work permit are not affected by the permit holder's absence from Canada.

Must immigration permissions be cancelled by the end of the assignment/employment?

There is no formal cancellation requirement. For employer-specific work permits, the termination or conclusion of the employment duration with the Canadian employer will invalidate the work permit. A foreign national must exit Canada by the expiry of their work permit.

If the foreign national holds an LMIA-based work permit, a disclosure of their termination or conclusion of their employment may need to be submitted to ESDC. Are there any penalties for individuals and/or companies in place for non-compliance with immigration law?

The consequences for non-compliance with Canadian immigration law are serious for both employers and individuals.

Employers are subject to inspections by immigration authorities to verify that they have complied with the conditions imposed by the immigration regulations. The inspections may be random, or can be triggered by previous non-compliance, adverse publicity, or whistle-blowers. The conditions under inspection include application information accuracy; document retention; foreign worker's wages, working conditions, and occupation; business legitimacy; and compliance with applicable employment and recruitment laws.

An employer may be subject to a system of Administrative Monetary Penalties for specific conduct that result in non-compliance. Moreover, a non-compliant employer may be banned from hiring foreign workers for a period of 1, 2, 5, or 10 years, or permanently. Employers can also be "black- listed" on the government's website which publicizes their violations and penalties.

An individual may be deemed inadmissible to Canada for non-compliance with Canadian immigration law. This means that the individual would not be able to visit, reside, or work in Canada. Individuals who are already residing in Canada, but who are found to be non-compliant with Canadian immigration law, may be issued a removal order.

Temporary Foreign Workers' Rights

IRCC released new requirements for employers to advise temporary foreign workers of their rights while working in Canada. Specifically, employers are now required to provide temporary foreign workers with current information regarding their rights in Canada. This information must be provided on or before their first day of work and be made available throughout their employment. Additionally, under the Additionally, under the International Mobility Program and Temporary Foreign Worker Program, employers must provide a signed employment agreement to the temporary foreign workers and ensure that employees are provided with access to healthcare services in the event of an injury or illness.

Specifically, going forward, employers must:

- On or before the first day of work, provide the Temporary Foreign Worker (TFW) with information about their rights in Canada
- During the period of employment, make available to the TFW information about their rights in Canada
- Provide a signed employment agreement to the TFW
- Provide a workplace that is free of abuse including reprisal
- Not charge or recover, directly or indirectly, from the TFW any fees related to recruitment either before or during the period of employment. Employers also must ensure that any person acting on their behalf has not and will not charge or recover such fees
- Provide access to health care services when the TFW is injured or becomes ill at the workplace
- Ensure that the IMP/TFWP Get to Know Your Rights Pamphlet was provided to temporary foreign works and is made available in the workplace.

The recent changes to employer's obligations are significant as IRCC is ensuring that employers understand their legal obligations when hiring a temporary foreign worker and remain compliant with Canadian immigration regulations. IRCC's goal is to enhance the employer compliance regime of the International Mobility Program and Temporary Foreign Worker Program, improve worker protections, and increase employer and temporary foreign workers' awareness about workers' rights in Canada.

5.4 Other Important Items

List any other important items to note, or common obstacles faced, in Canada when it comes to the immigration processes.

- **Prior criminal records –** criminal convictions (ex. DUI or Possession of Narcotics) can make a foreign national inadmissible to Canada. Any foreign national who is inadmissible will require a Temporary Resident Permit (TRP) to enter Canada. TRP applications are discretionary and time consuming.
- **Medical** – medical conditions that require intensive, on-going care/treatment can make a foreign national inadmissible to Canada.
- **Translations** – all documents must be in English or French and must be translated by a certified translator.
- **Degree Verification** – Canadian immigration authorities only recognize certain listed degrees for certain permit types.

Back to top