



TaxNewsFlash Canada

CRA Further Extends Travel Restrictions Relief

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Multinational entities and individuals can continue to rely on CRA relief for cross-border tax issues caused by travel restrictions until September 30, 2020. The CRA says it does not anticipate further extensions of the guidance, and taxpayers whose situation persists past September 30 are advised to contact the CRA.

This relief lengthens the CRA's application of its recent guidance, which generally provides that prolonged stays in Canada that solely result from travel restrictions due to COVID-19 will not necessarily affect the tax residency or permanent establishment of a non-resident entity. This guidance also clarifies that these travel restrictions may not affect the tax residency of a non-resident individual, or the ability of a cross-border employee to qualify for treaty benefits on employment income. In addition, the CRA's guidance provides administrative relief to reflect its processing delays regarding certain withholding tax waiver requests and Section 116 Certificates.

Previously, the CRA indicated that its guidance would only apply from March 16, 2020 to August 31, 2020, but that it was prepared to extend its relief measures where needed.

Background

As a result of COVID-19, countries around the world, including Canada, have imposed restrictions on travel that have disrupted normal business operations. In response, the CRA released guidance in May 2020 advising individuals who were visiting Canada at the time when travel restrictions were imposed—and who have remained in Canada solely because of these restrictions—that they will not be deemed to be resident in Canada for tax purposes solely for that reason. In addition, the CRA stated that it will not consider a corporation to become resident in Canada solely because a director of the corporation must participate in a board meeting from Canada because of travel

restrictions, where the relevant tax treaty contains a corporate residency tie-breaker rule based on the corporation's effective place of management. For corporations resident in non-treaty countries, the CRA generally noted that it will determine corporate residency on a case-by-case basis. Similarly, the CRA noted that it will not consider certain non-resident entities that carry on a business in Canada and reside in a jurisdiction that Canada has a tax treaty with, to have a permanent establishment in Canada solely because their employees perform their employment duties in Canada solely as a result of travel restrictions. The CRA also provided similar relief for non-resident entities residing in treaty jurisdictions in respect of potential "agency permanent establishments" and "service permanent establishments" issues arising due to travel restrictions.

The CRA further stated that U.S. residents who are present in Canada for more than 183 days solely due to travel restrictions will not have those days counted towards the 183-day test in the Canada-U.S. income tax treaty to determine whether they are taxable in Canada on their employment income. The CRA also stated that there will generally be no changes to the Canadian withholding obligations of a non-resident entity for certain eligible Canadian-resident employees who are forced to perform their employment duties in Canada on an exceptional and temporary basis as a result of travel restrictions, provided there are no changes to the withholding obligations of the non-resident entity in the other jurisdiction.

The CRA also announced additional relief measures for non-resident persons seeking requests to waive certain withholding requirements under Regulation 102 and 105 of the *Income Tax Act*, and for non-resident vendors disposing of certain taxable Canadian property but who have not yet received a Section 116 certificate. For full details on the CRA's guidance, see *TaxNewsFlash-Canada* 2020-50, "[COVID-19 — New CRA Relief Addresses Travel Restrictions](#)".

We can help

Your KPMG adviser can help you assess the effect of the CRA's guidance on cross-border tax issues caused by travel restrictions put in place because of COVID-19, and provide guidance on how your business might be affected in the future. We can also keep you abreast of any tax-related changes related to COVID-19 that you'll need to consider in the days and weeks ahead. For more details, contact your KPMG adviser.

Stay connected on the latest COVID-19 developments

We continue to watch tax and legal issues related to the evolving COVID-19 situation and will provide further information as it becomes available. For the latest developments, see our dedicated COVID-19 site, [The Business Implications of Coronavirus](#).



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