



REGULATION 105 WAIVER APPLICATION

Instructions

Use this form if you are a non-resident self-employed individual or corporation and want to apply for a reduced amount of Regulation 105 withholding tax from amounts paid to you for services provided in Canada. If you perform services that relate to the film industry, use form R105A, Regulation 105 Waiver Application - Film Industry, which is available on our Web site at: www.cra.gc.ca or at any tax services office.

Attach a copy of all relevant contracts to this application.

Section I – Applicant identification

1. Is this the applicant's first application in Canada?

No Yes

2. Check one of the boxes to indicate the applicant type contracted to provide services in Canada for the current contract.

Individual Unincorporated group Partnership Corporation Joint venture Limited liability company (LLC)

Other (specify) _____

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

Country of residence	Name	Date of birth: YYYY MM DD
----------------------	------	------------------------------------

Address	Telephone no.
---------	---------------

4. Professional or operating name of the applicant, if different than the legal name noted in No. 3 above:	5. Applicant's social security number or similar government-issued tax number from his or her country of residence:
------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------

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

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

Name	Telephone no.	Fax no.
Address		

8. Has this person been authorized by the applicant to discuss the applicant's tax affairs in Canada? If yes, attach a copy of the letter of authority.

No Yes

9. If the applicant is an unincorporated group, a corporation, a partnership, a joint venture, or an LLC, complete the following chart (if you need more space, attach a separate page).

Names of individual group members, shareholders, partners, or LLC members, also indicate the foreign social security number or social insurance number	Position or title	Address and country of residence	Percentage of voting shares or income profit/loss	Date of birth		
				YYYY	MM	DD
				YYYY	MM	DD
				YYYY	MM	DD
				YYYY	MM	DD
				YYYY	MM	DD
				YYYY	MM	DD
				YYYY	MM	DD
				YYYY	MM	DD

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

Entertainment Sport/Recreation Construction Petroleum and gas Transportation Communications

Business professionals Education Architectural/Engineering/Scientific/Technical Health Other (specify) _____

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

Theatre production Music Speaker/Lecturer Other (specify) _____

Section III – Previous and future service information

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

Dates of service (yyyy-mm-dd) from	Dates of service (yyyy-mm-dd) to	City and province/territory of service	Payer name and address	Amount of fee and the currency

22. Has the applicant provided services in Canada:

a) previously this calendar year? No Yes (complete No. 23 below) b) in the previous three calendar years? No Yes (complete No. 23 below)

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

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

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

Dates of future service (yyyy-mm-dd) from	Dates of future service (yyyy-mm-dd) to	City and province/territory of service	Payer name and address	Amount of fee and the currency

25. Declaration

I, (print) _____, certify that the information and supporting documentation provided with this application are true and correct and that I will meet the Canadian income tax return filing requirements as well as my withholding, remitting, and reporting requirements. I agree that notice of the approval or denial of this waiver application may be provided to the payer indicated in this application.

Signature of non-resident waiver applicant or authorized representative

Date

Instructions

Please mail or fax this application along with the applicant's supporting documentation (as outlined in "Instructions for Regulation 105 Waiver application") to the CRA tax services office that serves the area where the applicant's services will be provided.

Instructions for the Regulation 105 Waiver Application

Payer withholding and reporting requirements

Regulation 105 of the *Income Tax Act* requires every person (whether resident or non-resident in Canada) who pays a non-resident person (individual, corporation, partnership, joint venture, limited liability company, or other) a fee, commission, or other amount for services (of a non-employment nature) rendered in Canada, to deduct and withhold 15% tax from such a payment. Payers are generally required to remit the tax to the Canada Revenue Agency (CRA) by the 15th of the month following the month in which they paid the non-resident. Payers who fail to withhold without authorization from the CRA may be assessed tax, penalty, and interest. Payers are required to complete a T4A-NR *Statement of fees, commissions, or other amounts paid to non-residents for services rendered in Canada* information slip for each non-resident person they pay and to provide each payee with the appropriate slip copies. Payers must file all slips together with one T4A-NR Summary form with the CRA. For more detailed information on preparing these forms, see our publication T4061, *Non-Resident Withholding Tax Guide*.

Waivers on withholding

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

Who may apply for a waiver?

- Non-resident persons (i.e. an individual, partnership, joint venture, corporation, or limited liability company) who will be providing services (of a non-employment nature) in Canada
- United States artistes and athletes providing services in Canada who will earn less than \$15,000 (in Canadian currency) for the whole current year, including reimbursable expenses or expenses paid on their behalf
- Non-U.S. artistes and athletes who will be providing services in Canada

How and where to apply

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

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

Notes

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

These instructions may also be used by non-residents applying for a waiver based on their statement of income and expenses directly related to their services to be provided in Canada. All income and expense claims must be supported by proper documentation.

How to complete form R105, Regulation 105 Waiver Application

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

Section I – Applicant identification area

2. Check the applicable box to indicate the type of applicant who will be providing services in Canada under the current contract. This will help determine which particular article of a tax treaty may be applied if an exemption from tax is determined. For example: a personal services corporation or a "star" corporation is often found in the entertainment and sports industries and utilized by individuals who provide their services through these types of corporations.
3. If the applicant is an individual, provide his or her legal name from the birth certificate. If the entity is an **unincorporated** musical group or a partnership, provide the name of the group or partnership.
4. If the applicant is an individual who uses and is identified by a professional or stage name other than his or her legal name, provide this name.
5. If the applicant is an individual, provide the government-issued identification or tax number from his or her country of residence. For U.S. resident individuals, provide the social security number. If the applicant is not an individual, complete question #9 on the application instead.
6. Indicate any Business Number or similar identifier that the CRA may have issued previously to the applicant. For example, the applicant may have received a Temporary Tax Number (TTN) if he or she previously filed a Canadian income tax return.
7. Provide the agent's details if he or she is not the applicant (e.g., manager).
8. If the "yes" box is checked, provide documentation to support that the person has power of attorney or expressed written authorization to discuss the applicant's waiver application and/or his or her tax affairs with the CRA.
9. Complete the chart detailing the names of all members of an unincorporated group or a partnership including a limited liability company, or shareholders (if a corporation), and their respective titles, addresses and countries of residence, and social security or similar government-issued identification numbers. Also, please provide the percentages according to which income or profits/losses will be allocated between the members based on any agreement between the members or partners. For a corporation, provide the percentage allocation of voting shares between shareholders.

Section II – Current service information

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

Declaration

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

Documents to submit with a completed form R105

Contracts and sub-contracts

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

Identification information

- Members of an unincorporated group or a partnership: A copy of the group or partnership agreement (if applicable) outlining how income and profits/losses are distributed or allocated between the members.
- Joint venture or limited liability company (LLC): Copies of their joint venture agreements or LLC membership agreement. In addition, LLCs electing to be treated as a corporation in the U.S. must provide a copy of their most recently assessed U.S. tax return and/or a letter from the IRS confirming the LLCs election and "start date" to be considered resident in the U.S.
- Corporations: A copy of the articles of incorporation and any documents substantiating any name or other changes subsequent to incorporation. In addition, we may request documented proof of shareholders and officers and any voting shares they may hold.
- For every person providing services in Canada, provide confirmation of each individual, shareholder, partner, or group member's country of residence. (Provide copies of passports, citizenship cards, social insurance numbers, or similar government-issued identification numbers, health cards, or certification of residence). This information is also required for any employees or non-resident sub-contractors being paid by the applicant for services provided in Canada.
- Copies of all Canadian work visas.
- A letter showing power of attorney authorization to the representative to discuss the applicant's tax affairs and waiver application with the CRA.

Number of consecutive days outside of Canada

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