When your employees work outside Canada: Income tax help for Canadian employers

November 30, 2020

There are several tax issues for Canadian employers to consider when employees work outside of Canada. This article identifies key income tax considerations for employees, employers and customers.

1. Issues for employees

Employees who are resident in Canada under the *Income Tax Act (Canada)* (the Tax Act) are taxed on their worldwide income from all sources, including employment income earned for work performed outside of Canada. An employee is considered resident in Canada for the year if they spend 183 or more days in the country in any calendar year, or are otherwise resident in Canada by virtue of their factual (*e.g.* social, economic) ties.

Employees who are resident in Canada but work outside of Canada may also have to pay tax in the jurisdiction in which they work. A tax treaty between Canada and the foreign jurisdiction will often determine which jurisdiction has the primary right to tax the employment income. If there is no tax treaty, Canada will generally grant the employee a foreign tax credit.

In certain circumstances, it may be possible for a Canadian employee working (and taxable in) in a foreign jurisdiction to seek a waiver from the Canada Revenue Agency (CRA) to reduce Canadian tax withholding.

Further, if Canada has an international social security agreement with the foreign jurisdiction, Canada may issue the employee a certificate to provide to the employer, confirming the employee continues to pay into the Canada Pension Plan and Employment Insurance regimes in Canada, which will exempt the foreign employment from foreign social security withholdings.

2. Issues for Canadian employers

Canadian employers must be familiar with the tax obligations of the foreign jurisdiction in which the employee works to ensure compliance with any tax reporting, withholding

and remittance obligations. If, under a tax treaty, the employee will not be subject to tax in the foreign jurisdiction, it may be possible to obtain a waiver to avoid tax withholding.

Depending on the type of work performed in a foreign jurisdiction, Canadian employers may be considered to be "carrying on business" in the foreign jurisdiction under its domestic law, such that the Canadian employer could have obligations to register for commodity and sales taxes and file income tax returns reporting income earned in the foreign jurisdiction. Additional business registrations and licensing in the foreign jurisdiction may also be required.

Tax treaties generally limit a foreign jurisdiction's ability to impose income tax on a Canadian employer's business income unless the Canadian employer has a permanent establishment in the foreign jurisdiction. A permanent establishment is a fixed location through which the Canadian employer carries on their business, wholly or in part, and may include a place of management, an office, a factory, a workshop or a place for resource extraction (*i.e.*, mines, oil wells, etc.).

In addition, an employee physically working in a foreign jurisdiction for a Canadian employer may give rise to a permanent establishment if the employee habitually exercises an authority to conclude contracts on behalf of the Canadian employer in the foreign jurisdiction.

While tax treaties may provide employers income tax relief, they generally do not provide any relief from commodity or sales tax obligations, business registration obligations, or obligations to comply with income tax reporting. Available relief and legal tests for determining whether an employer is carrying on business in a given jurisdiction will vary.

3. Issues for customers

Under the laws of the foreign jurisdiction, customers may be required to withhold fees paid to Canadian employers for remittance to the local tax authority. Canadian employers may be able to recover these fees by filing a tax return in the foreign jurisdiction or applying for a waiver under an available tax treaty.

If you have questions about tax laws as they relate to employees working outside Canada, reach out to BLG's Tax Group or any of the contacts listed below.

By

Pamela L. Cross

Expertise

Corporate Commercial, Labour & Employment, Tax

BLG | Canada's Law Firm

As the largest, truly full-service Canadian law firm, Borden Ladner Gervais LLP (BLG) delivers practical legal advice for domestic and international clients across more practices and industries than any Canadian firm. With over 800 lawyers, intellectual property agents and other professionals, BLG serves the legal needs of businesses and institutions across Canada and beyond – from M&A and capital markets, to disputes, financing, and trademark & patent registration.

blg.com

BLG Offices

Calgary

Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T 403.232.9500
F 403.266.1395

Ottawa

World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T 613.237.5160
F 613.230.8842

Vancouver

1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

Montréal

1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T 514.954.2555
F 514.879.9015

Toronto

Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749

The information contained herein is of a general nature and is not intended to constitute legal advice, a complete statement of the law, or an opinion on any subject. No one should act upon it or refrain from acting without a thorough examination of the law after the facts of a specific situation are considered. You are urged to consult your legal adviser in cases of specific questions or concerns. BLG does not warrant or guarantee the accuracy, currency or completeness of this publication. No part of this publication may be reproduced without prior written permission of Borden Ladner Gervais LLP. If this publication was sent to you by BLG and you do not wish to receive further publications from BLG, you may ask to remove your contact information from our mailing lists by emailing unsubscribe@blg.com or manage your subscription preferences at blg.com/MyPreferences. If you feel you have received this message in error please contact communications@blg.com. BLG's privacy policy for publications may be found at blg.com/en/privacy.

© 2026 Borden Ladner Gervais LLP. Borden Ladner Gervais LLP is an Ontario Limited Liability Partnership.