

**Lim.Elina**

---

**From:** Martel, Noémie <Noemie.Martel@cra-arc.gc.ca>  
**Sent:** November 19, 2021 9:56 AM  
**To:** Legault.Sarah  
**Cc:** Renaud, Celine  
**Subject:** RE: Inquiry regarding Canadian work experience and interpretation  
**Attachments:** CRA'S response.docx

Categorization: Unclassified

Good morning,

Please find attached CRA' s response to question 1 to 3.

In order to respond to question 4, the CRA would need clarification on how you define ‘ Canadian labor market’ ’ .

The RRSP contributions are essentially voluntary investments made by individuals in a retirement savings vehicle to ultimately provide funds available upon the retirement of the individual. The employment insurance deductions are mandatory for employees and can be voluntary for self-employed individuals. The purpose of the employment insurance deductions is to ensure that funds are available to the employee (or self-employed individual) upon termination of employment (if the requirements imposed by the EI legislation are met).

As per question 2, could you also provide information on the term ‘ employer of record’ ’ ? Depending of the definition of this term, the CRA could provide more information.

Should you have any other questions, please do not hesitate to contact us.

Thank you,

Noémie

---

**From:** Legault.Sarah  
**Sent:** Wednesday, October 13, 2021 2:46 PM  
**To:** International Relations Office-LPRAB / Bureau des relations internationales-DGPLAR (CRA/ARC)  
**Cc:** Martel, Noémie  
**Subject:** RE: Inquiry regarding Canadian work experience and interpretation

Thank you for your quick response.

Note that a decision has already been made on the file, so we don' t need an immediate response. However, we continue to receive similar applications and questions regarding Canadian work experience, so hopefully someone would be able to review in the near future.

Sarah Legault (she/elle)

Senior Policy and Program Advisor, Immigration Program Guidance  
Immigration, Refugees and Citizenship Canada / Government of Canada

[sarah.legault@cic.gc.ca](mailto:sarah.legault@cic.gc.ca) / (343) 572-9117

Conseillère principale en politiques et programmes, Orientation du programme d'immigration  
 Immigration, Réfugiés et Citoyenneté Canada / Gouvernement du Canada  
[sarah.legault@cic.gc.ca](mailto:sarah.legault@cic.gc.ca) / (343) 572-9117

---

From: Renaud, Celine [<mailto:Celine.Renaud2@cra-arc.gc.ca>] On Behalf Of International Relations Office-LPRAB / Bureau des relations internationales-DGPLAR (CRA/ARC)  
 Sent: October 13, 2021 11:00 AM  
 To: Legault.Sarah <[Sarah.Legault@cic.gc.ca](mailto:Sarah.Legault@cic.gc.ca)>; International Relations Office-LPRAB / Bureau des relations internationales-DGPLAR (CRA/ARC) <[IRTO.LPRAB@cra-arc.gc.ca](mailto:IRTO.LPRAB@cra-arc.gc.ca)>  
 Cc: Martel, Noémie <[Noemie.Martel@cra-arc.gc.ca](mailto:Noemie.Martel@cra-arc.gc.ca)>  
 Subject: RE: Inquiry regarding Canadian work experience and interpretation

Categorization: Unclassified

Bonjour Ms. Legault,

Thank you for contacting the CRA. We are happy to coordinate this request for you. Ms. Noémie Martel from my team will be coordinating your request.

Is your request time sensitive? I'm asking because we usually give our program branches a few weeks to answer. Kindly advise

Thanks

Céline Renaud

Manager | Gestionnaire

International Coordination and Integration Section | Section de la coordination et de l'intégration internationales

International Relations and Treaties Office | Bureau des relations et des conventions internationales

Legislative Policy Directorate | Direction de la politique législative

Legislative Policy and Regulatory Affairs Branch | Direction générale de la politique législative et des affaires réglementaires

Cell :

Create your account today and visit us at [www.ksp-ta.org](http://www.ksp-ta.org)




---

From: Legault.Sarah <[Sarah.Legault@cic.gc.ca](mailto:Sarah.Legault@cic.gc.ca)>  
 Sent: October 13, 2021 9:14 AM  
 To: International Relations Office-LPRAB / Bureau des relations internationales-DGPLAR (CRA/ARC) <[IRTO.LPRAB@cra-arc.gc.ca](mailto:IRTO.LPRAB@cra-arc.gc.ca)>  
 Subject: Inquiry regarding Canadian work experience and interpretation  
 Importance: High

Good morning,

I work for Immigration Refugees and Citizenship Canada, specifically for the Immigration Program Guidance branch. We provide functional guidance to Immigration Officers, lawyers and representatives. We are looking for a contact at CRA who can help us understand more about how we can define "Canadian work experience" in the context of work performed "remotely" in a post-pandemic world. Specifically, we are looking for more information regarding:

- What is a certified non-resident employer certification with CRA? Is it sufficient to qualify the employer as being a 'Canadian' employer?
- Is an employer of record considered a 'Canadian' employer? If 'yes' why? If 'no' why not?
- How to interpret a T4 showing 'US' in box 10 - Province?
- Are RRSP and Employment-Insurance deductions considered contributions to the Canadian Labor Market?

I would be happy to provide additional information and context once the correct stakeholder has been identified.

Thank you,

Sarah Legault (she/elle)

Senior Policy and Program Advisor, Immigration Program Guidance  
Immigration, Refugees and Citizenship Canada / Government of Canada  
[sarah.legault@cic.gc.ca](mailto:sarah.legault@cic.gc.ca) / (343) 572-9117

Conseillère principale en politiques et programmes, Orientation du programme d'immigration  
Immigration, Réfugiés et Citoyenneté Canada / Gouvernement du Canada  
[sarah.legault@cic.gc.ca](mailto:sarah.legault@cic.gc.ca) / (343) 572-9117

## Canada Revenue Agency (CRA)'s response to Immigration, Refugees and Citizenship Canada (IRCC) questions:

**Question 1 : What is a certified non-resident employer certification with CRA? Is it sufficient to qualify the employer as being "Canadian" employer?**

English

A: Non-resident employer certification is not used to qualify an employer as a "Canadian employer". The purpose of non-resident employer certification is that, for those who apply and qualify, they will not have to withhold and remit tax on the payments they make to non-resident employees who are working in Canada for a limited time, and who are exempt from tax in Canada under a tax treaty.

Non-resident employees providing employment services in Canada are subject to the same withholding, remitting, and reporting obligations as Canadian resident employees. Therefore, any employer, including a non-resident employer, is required to withhold amounts on account of the income tax liability of an employee in Canada even if the employee is likely to be exempt from tax in Canada because of a tax treaty. For the employer to be relieved of their obligation to withhold, the employee would have to apply for and get an income tax waiver from the Canada Revenue Agency (CRA)<sup>1</sup>.

However, there is an exception to the employer's withholding obligation for certain non-resident employers paying employment income to non-resident employees for performing the duties of an office or employment in Canada after 2015. These non-resident employers, who apply for non-resident employer certification, will not have to withhold and remit tax on the payments they make to non-resident employees who are working in Canada for a limited time and are exempt from tax in Canada under a tax treaty.

What is a qualifying non-resident employer?

**In the case of an employer that is not a partnership:**

A qualifying non-resident employer at any time means an employer that is at the time of the payment

- certified by the Minister of National Revenue under subsection 153(7) of the Income Tax Act and is either
- resident in a country that Canada has a tax treaty with, or
- would be considered resident in a country that Canada has a tax treaty with, if that country treated the employer as a corporation for tax purposes (e.g., a limited liability company formed in the U.S. that has not elected to be treated as a corporation for U.S. tax purposes).

---

<sup>1</sup> [Treaty based waivers involving Regulation 102 withholding - Canada.ca](https://www.cra.gc.ca/1537)

### **In the case of an employer that is a partnership:**

A qualifying non-resident employer at any time means an employer that is at the time of the payment a partnership where at least 90% of the partnership's income or loss for the fiscal period that includes the time of the payment is allocated to members that are resident in a country that Canada has a tax treaty with.

Non-resident employer certification is not used to qualify an employer as a “Canadian employer”.

For more information, please visit [Non-resident employer certification - Canada.ca](https://www.canada.ca/en/immigration-refugees-citizenship/services/employment-non-resident/non-resident-employer-certification.html)

### French

R: La certification des employeurs non-résident n'est pas utilisée pour qualifier un employeur comme « employeur canadien ». La certification des employeurs non-résident vise à ce que, pour ceux qui présentent une demande et qui sont admissibles, ils n'aient pas à retenir et à verser de l'impôt sur les paiements qu'ils font aux employés non-résidents qui travaillent au Canada pour une période limitée, et qui sont exonérés d'impôt au Canada en vertu d'une convention fiscale.

Les employés non-résidents fournissant des services d'emploi au Canada sont assujettis aux mêmes obligations en matière de retenues, de versements et de déclarations, que les employés qui sont résidents au Canada. Par conséquent, tout employeur, y compris un employeur non-résident, est tenu de retenir des montants sur le compte de l'impôt sur le revenu à payer par un employé au Canada, même si celui-ci est probablement exonéré d'impôts au Canada en raison d'une convention fiscale. Pour que l'employeur soit dégagé de son obligation de retenir, l'employé devra faire une demande et obtenir une dispense de retenue d'impôt sur le revenu auprès de l'Agence du revenu du Canada (ARC)<sup>2</sup>.

Toutefois, il existe une exception concernant l'obligation de retenues pour certains employeurs non-résidents qui paient un revenu d'emploi à des employés non-résidents qui exercent les fonctions d'une charge ou d'un emploi au Canada après 2015. Ces employeurs non-résidents, qui demandent la certification d'employeurs non-résidents, n'auront pas à retenir et à verser l'impôt sur les paiements qu'ils effectuent pour les employés non-résidents travaillant au Canada pendant une période limitée, et qui sont exonérés d'impôts au Canada conformément à une convention fiscale.

---

<sup>2</sup> [Dispenses fondées sur une convention fiscale touchant des retenues prévues par l'article 102 - Canada.ca](https://www.canada.ca/en/immigration-refugees-citizenship/services/employment-non-resident/non-resident-employer-certification.html)

## Qu'est-ce qu'un employeur non-résident admissible?

### **Cas d'un employeur qui n'est pas une société de personnes**

Un employeur non-résident admissible en tout temps désigne un employeur qui, au moment du paiement :

- est certifié par le ministre du Revenu national en vertu du paragraphe 153(7) de la Loi de l'impôt sur le revenu et remplit l'une des conditions suivantes :
- il est résident d'un pays avec lequel le Canada a une convention fiscale,
- il serait considéré comme un résident d'un pays avec lequel le Canada a une convention fiscale, si ce pays traitait l'employeur comme une société à des fins fiscales (p. ex., une société par actions à responsabilité limitée formée aux États Unis qui n'a pas choisi d'être traitée comme une société à des fins fiscales aux États Unis).

### **Cas d'un employeur qui est une société de personnes**

Un employeur non-résident admissible en tout temps désigne un employeur qui est, au moment du paiement, une société de personnes dont au moins 90 % du revenu ou de la perte pour l'exercice qui comprend le moment du paiement, doivent être attribués à des associés qui résident dans un pays avec lequel le Canada a une convention fiscale. Si le revenu de la société de personnes est nul pour l'exercice, le revenu de la période est supposé atteindre 1 000 000 \$ aux fins de la détermination de la part de l'associé dans le revenu de la société de personnes.

La certification de l'employeur non-résident ne sert pas à qualifier un employeur comme un « employeur canadien ».

Pour de plus amples renseignements, veuillez visiter [Certification des employeurs non-résidents - Canada.ca](https://www.cra.gc.ca/canada-ca).

### **Question 2 : Is an employer of record considered a 'Canadian' employer? If 'yes' why? If 'no' why not?**

Most likely, it would depend on how the employer of record (EOR) is defined by IRCC. The term is not one we use internally in CRA or on [Canada.ca](https://www.cra.gc.ca/canada-ca).

### **Question 3 : How to interpret a T4 showing 'US' in box 10 – Province?**

Yes, if an employer lists 'US' in box 10, it is advising CRA that the employee worked in the United States. See Filling out the [T4 slip - Canada.ca](https://www.cra.gc.ca/canada-ca) for accepted abbreviations in box 10.

**Question 4 : Are RRSP and Employment-Insurance deductions considered contributions to the Canadian Labor Market?**