

Human Resource Services Webcast

Temporary away from home rules:
Comparing and contrasting
Canadian regulations with other
common expat locations

December 5, 2013

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Objectives

To provide guidance to ensure that your company is taking the most tax effective approach when planning for these assignments

- To provide an understanding of the tax relief available to employees and/or employers with respect to temporary living expenses via:
 - a review of the Canadian tax regime
 - a comparison to other key locations: US, UK, France and Australia
- To highlight what actions or documentation may be required to take advantage of this tax relief in each location

Polling question #1

Please indicate which countries you are interested in learning about in today's webcast. Please indicate all that apply.

- Canada
- United States
- United Kingdom
- France
- Australia

Agenda

- Objectives of this session
- Defining terms
- Canadian tax relief
- Comparisons:
 - United States
 - United Kingdom
 - France
 - Australia
- What do you need to remember?



Defining terms

What is temporary? (as per Webster's dictionary)

- adj: continuing for a limited amount of time: not permanent: intended to be used for a limited amount of time
- Each jurisdiction has its own parameters regarding the length of time regarded as temporary

What are living expenses? (as per Webster's dictionary)

- living - adjective: not dead: having life: currently active or being used
- ex·pense noun \ik-ˈspen(t)s\: the amount of money that is needed to pay for or buy something: an amount of money that must be spent especially regularly to pay for something: something on which money is spent
- The type of expenses that would be defined as living expenses for the purposes of any preferential tax treatment may vary from one jurisdiction to another



Canada - Exemption for board & lodging at special work sites (ss. 6(6))

- General rule: under Canadian domestic tax law, all benefits received by an employee are taxable
- However, exemptions are available for amounts paid for board and lodging related to special work sites if:
 - Employee worked at a special work site carrying out duties of a temporary nature
 - Away from principal residence (PR) for minimum 36 hours
 - Employee *maintained a self-contained domestic establishment* in their principal place of residence
- Expenses incurred for accompanying spouse/dependent(s) are taxable



Canada - Exemption for board & lodging at special work sites

- Employee can also exclude certain transportation benefits from income:
 - The value of free/subsidized transportation between special work site and his principal residence; or
 - A reasonable allowance paid to the employee for transportation expenses
 - Specifically transportation to and from home and work site and *not for local transportation* while at the special work site



Canada - Exemption for board & lodging at special work sites

- Complete *Form TD4, Declaration of Exemption – Employment at Special Work Site*
 - To be completed and signed by employee and employer
 - Attestation from employee that he/she meets the conditions required in order to claim the exemption
 - Not filed with the CRA
 - Maintain in payroll files
- T4 Reporting – none required unless the employee is working at a special work site that is in a prescribed zone



Declaration of Exemption – Employment at a Special Work Site

Who can use this form?

Use this form if you are an employee who works at a special work site. It will allow your employer to determine if the following benefits can be excluded from your income:

- the value of, or a reasonable allowance for, board and lodging provided by your employer at a special work site; and
- the value of, or a reasonable allowance for, transportation expenses you received for transportation to and from your principal place of residence.

Your employer will exclude these benefits or allowances from your income if all the conditions explained below are met.

You and your employer should complete this form when you begin your employment at a special work site or if your employment situation at a special work site changes.

For more details, see Interpretation Bulletin IT-91, *Employment at Special Work Sites or Remote Work Locations*.

Employee Information (please print)

Last name	First name and Initial(s)	Social Insurance number
Address of your principal place of residence (self-contained domestic establishment)		Postal code
Number of kilometres between your principal place of residence and the special work site (one way)	Location where you live while you are employed at the special work site (km)	

Employee's certification

I certify that I meet all of the following conditions:

- I maintain a self-contained domestic establishment as my principal place of residence at the address above.
- My principal place of residence is available for me to live in. I do not rent it to anyone.
- By reason of the distance between my principal place of residence and the special work site, I am not expected to commute between the two while I am working at that location.
- My work requires me to be away from my principal place of residence for at least 36 hours, including the time I spend travelling between my principal place of residence and the special work site.

Year	Month	Day	Signature of employee
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Employer Information (please print)

Name of employer	
Address	
Type of business	Account number (from Form PD7A, remittance voucher)
Name of proprietors or partners (if applicable)	
Exact location of the special work site (including the municipality)	The benefits or allowances below are available under: collective agreement <input type="checkbox"/> company policy <input type="checkbox"/>
Period of work at the special work site requiring the employee to be away from his or her principal place of residence for at least 36 hours.	From: Year Month Day To: Year Month Day

Employer details of benefits or allowances (give an estimate if you do not know the exact amount)

	Board	Lodging	Board and lodging	Transportation	Other
Amount paid to employee for:	\$	\$	\$	\$	\$
Value of free:	\$	\$	\$	\$	\$

Employer's certification

I certify that all of the following conditions are met:

- The duties the employee has to perform at the special work site are temporary and, by reason of distance, the employee is not expected to return daily to his or her principal place of residence.
- The board and lodging provided or the allowance received by the employee have been for a period of at least 36 hours spent at the special work site (including the time the employee spends travelling between the principal place of residence and the special work site).
- The benefits or allowances for transportation given to the employee relate only to the period the employee also receives the value of, or allowances for, board and lodging.

After you complete this form with your employee, keep it with your payroll records in case we ask to see it.

Year	Month	Day	Signature of employer or authorized officer
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Note: Employers should contact their tax services office if they receive a Form TD4 with doubtful statements. Any person who knowingly completes or accepts a Form TD4 with false or deceptive statements commits an offence.



Quebec – Employee working at a special work site

- Similar to Federal guidelines
- One important distinction – duties of a temporary nature also refer to the position that is being filled by the individual – not simply the duration of that employee's assignment
- If the position is of a permanent nature (CFO, CEO), then the “temporary” criteria is not met under Quebec legislation
- If all conditions are met, the value of the benefit provided is not taxable:
 - Not included in Boxes A and V of RL-1 Slip
 - No forms to fill out or to maintain in payroll files

Scenario 1

- Employee from the US is transferred to Canada
- She is assigned to the position of Canadian CEO
- This position has been always been occupied by employees from foreign jurisdiction for a maximum of 2 years
- Her assignment letter states that she will be there for 2 years as well
- The company provides her with a housing allowance
- She continues to maintain her home in Connecticut and returns there once a month

Question: Can an exemption under subsection 6(6) be claimed with respect to her housing allowance?

Polling question #2

Is the review of whether an employee qualifies for an exemption under 6(6) integrated into your mobility process?

- Yes
- No
- Sometimes
- PwC employee



United States – Away from home expenses

- Travel expenses are deductible if they are:
 - Ordinary and necessary
 - Incurred in pursuit of trade or business
 - Incurred while “away from tax home”
 - Duties required employee to be away from tax home for longer than 1 day
 - Assignment is temporary in nature
 - Intent related to work away from home



United States – Away from home expenses

- All ordinary and necessary expenses can be deducted, including:
 - Lodging and meals
 - Transportation
 - Incidentals

United States – Away from home expenses

Key words and definitions

- Tax home
 - The employee's regular or principal place of business
 - Not determined by location of the individual's family home
- Temporary
 - < 1 year
 - If > 1 year, assignment is “indefinite” (cannot deduct travel expenses)
- Business expenses
 - Accountable plan vs. non-accountable plan



United States – Away from home expenses

- Documentation to substantiate the expenses is critical
- Expenses incurred for accompanying spouse/dependent(s) are taxable

Scenario 2

- Employee is a CEO based out of the US
- She also works in Australia, Canada and the UK
- She spends approximately 25% of her time in each country (including the US)
- She is a resident of US for tax purposes

Question: Where is her tax home?



United States – Away from home expenses

	Canada	United States
Applies to...	Inbounds and outbounds	Inbounds and outbounds
Away from...	Principal residence	Tax home
Duties of a temporary nature	Up to 2 years (guideline)	Less than 1 year “intent”
Types of expenses:		
- Board and lodging	Yes	Yes
- Meals	Yes	Yes
- Transportation	To and from home to special worksite	To and from temporary work location, client visits, business meetings
- Expenses incurred for spouse or dependents	Taxable	Taxable
- Exemption or deduction	Exemption	Exemption

Polling question #3

Does your company have employees with multi-jurisdictional responsibilities?

- Yes
- No
- Don't know
- PwC employee



United Kingdom – Special tax rules on foreign travel

- Detached Duty Relief
 - Cost of travel between home to temporary work place
 - Reasonable cost of housing for employee only
 - Daily meals for employee only
 - Typically < 2 years



United Kingdom – Overseas workday relief

- Foreign employees are now eligible (prior to April 6, 2013, they were not)
- Requires approval to reduce withholding at source
- Relief applies if the duties:
 - Can only be carried out abroad (travel costs to and from the overseas worksite – no limit to the number of trips)
 - Keep the employee abroad for 60 days or more (spouse/children's travel costs are exempt)



United Kingdom – Special tax rules on foreign travel

Employees not domiciled in the UK who work in the UK

- New rules in place with regards to definition of residency
 - Will require closer monitoring of travel days
- Travel must be included in payroll, but no withholding is required
- Housing:
 - if paid as an allowance, payroll withholding required
 - if paid directly, no withholding (provided application has been approved)
- Approval is required to reduce any remittances



United Kingdom – Tax relief with respect to travel expenses

	Canada	United Kingdom
Applies to...	Inbounds and outbounds	Inbounds and outbounds
Away from...	Principal residence	N/A
Duties of a temporary nature	Up to 2 years	Less than 2 years
Types of expenses:		(Must be included in income to obtain relief)
- Board and lodging	Yes	Yes
- Meals	Yes	Yes
- Transportation	To and from special work site	To and from the work site
- Expenses incurred for spouse or dependents	Taxable	Taxable
- Exemption or deduction	Exemption	Deduction

Scenario 3

- Canadian (ON) resident on short-term assignment to the UK
- Retains his home in Canada and returns for a week every month as the family has remained there
- Working at the UK office while in the UK, and working at the offices in Toronto while in Canada
- Assignment length is two years

Question: What is the tax treatment for assignment benefits in Canada and the UK?



France - Exemption of supplemental wages

Employees inbound to France

- What compensation elements can be exempt from French tax?
 - Allowances paid as a result of the relocation or with respect to employees directly recruited from outside France, as an alternative possibility to opt for a 30% exemption of their remuneration
 - Prorata of remuneration related to work performed outside of France as long as the services performed are for the direct benefit of the French employer
 - Another possible exemption is “les frais de double résidence”



France - Exemption of supplemental wages

Employees inbound to France

- *Régime des impatriés* - applies to employees and management arriving from outside France to fill a position at a French-based company
- The following conditions need to be met for the regime to apply:
 1. Employee commenced the position as of January 1, 2008 or later
 2. Employee has not been a French tax resident during the 5 calendar years preceding the acceptance of the job in France
 3. Employee becomes a tax resident of France once the work begins



France - Exemption of supplemental wages

Employees inbound to France

- The exemption available is subject to the following limitations:
 - The amounts exempt (assignment allowance *prime d'impatriation* and remuneration attributable to services rendered abroad) are limited to 50% of total remuneration
 - The portion exempt from remuneration relating to the services rendered abroad is limited to 20% of the taxable compensation from this activity, net of allowances



France - Exemption of supplemental wages

French employees working abroad

- Supplemental wages paid related to work being performed abroad are exempt from French taxes when the following three conditions are met:
 1. The amounts paid are with respect to the work performed abroad are for the sole benefit of the employer
 2. The employee is required to be at the work site for at least 24 hours (not including travel time)
 3. The amount of the allowance/supplemental wage is determined at the onset of the project abroad by taking into account the number of visits, the length of the visits and the location of the project. It cannot exceed 40% of base remuneration related to the period in question.



France – Tax relief with respect to supplemental wages

	Canada	France
Applies to...	Inbounds and outbounds	Inbounds and outbounds
Away from...	Principal residence	N/A
Duties of a temporary nature	Up to 2 years	Outbounds – at least 24 hrs Inbounds – no reference to temporary
Types of expenses:		
- Board and lodging	Yes	Yes
- Meals	Yes	N/A for inbounds
- Transportation	To and from special worksite	Yes
- Expenses incurred for spouse or dependents	Taxable	Taxable
- Exemption or deduction	Exemption	Exemption



Scenario 4

- Canadian (ON) resident signs three-year assignment for a position in France
- He has never been a tax resident of France

Question: What is the tax treatment in Canada? In France? What further information would be necessary?

Australia – Income tax exempt employment benefits

- Exempt benefits include:
 - Non-cash fringe benefits provided by an employer to an employee
 - Use of a car, accommodations, low interest loans
 - However, value of the benefit may be subject to tax (payable by the employer) under the Fringe Benefit Tax (FBT) system



Australia - Fringe Benefits Tax (FBT)

- FBT is a tax paid on certain benefits an employer provides to an employee
- FBT is separate from income tax and is based on the taxable value of the various benefits provided
- A separate return needs to be filed by the employer with respect to the FBT



Australia - Fringe Benefits Tax

- Common benefits provided to employees subject to FBT:
 - Board fringe benefits – accommodations and at least two meals a day
 - Housing fringe benefits – accommodation provided to an employee rent-free or at a reduced rent
 - Accommodation provided in remote areas may be exempt
 - Car fringe benefits – making a car available for the private use of the employee
 - Residual fringe benefits – any right provided that is not one of the specified types of FBT



Australia – LAFHA

- Living-away-from-home allowance (LAFHA) fringe benefits – allowance to cover additional expenses incurred because of the requirement to live away from residence
- There is an FBT exemption available to employees living away from their Australian home
 - Home must remain vacant
- Two stages to the process for employers:
 1. Questionnaire to the employees regarding their home being vacant to see if they qualify
 2. Declaration to be signed by the employee – annually

Living-away-from-home declaration – from 1 October 2012 under transitional rules

Name of employee

I,

declare that

from Day Month Year to Day Month Year

I was required to live away from my normal residence in order to perform the duties of my employment and I expect to resume living at my normal residence when my living-away-from-home period ends.

During that period, my normal residence was

Address of employee

Suburb/town

State/territory

Postcode

The nature of that residence was

During that period I actually resided at the following addresses

Signature

Date
Day Month Year

Australia – Non-cash fringe benefits (temporary living expenses)

	Canada	Australia
Applies to...	Inbounds and outbounds	Inbounds and outbounds
Away from...	Principal residence	LAFHA – Australian home Inbounds – N/A
Duties of a temporary nature	Up to 2 years	N/A
Types of expenses:		
- Board and lodging	Yes	Yes
- Meals	Yes	Yes
- Transportation	To and from special worksite	Yes
- Expenses incurred for spouse or dependents	Taxable	Taxable
- Exemption or deduction	Exemption	Exemption However, FBT applies

Scenario 5

- Canadian (QC) resident signs an 18-month assignment for a position in Australia
- He is equalized to Canada for the duration of the assignment
- The start date is June 1, 2013
- He will be receiving a housing allowance, per diem and a car in Australia

Question: What is the tax treatment in Canada? In Australia? What are the planning opportunities?

Polling question #4

Do you foresee a greater number of short term assignments over the next few years (versus traditional longer assignments)?

- Yes
- No
- Don't know
- PwC employee



What do you need to remember? A snapshot

Country	Highlights
Canada	Duties are temporary in nature Form TD4 Permanent position does not equal temporary
United States	Tax home and less than one year - intent
United Kingdom	Deduction not exemption
France	Inpatriate regime
Australia	FBT Business travellers



Planning considerations

- Not all countries provide the same type of tax relief regarding temporary away from home expenses
- Duties to be performed and the intent related to the work assignment can affect the tax treatment (Canada, Quebec, US)
- Residency in a given country can result in tax savings (France, UK)
- Providing the housing by paying the rent directly may be more tax effective than providing an allowance (France, UK)
- Tax savings to the employee may result in a tax burden to the employer (Australia)
- Not all transportation expenses qualify for tax relief (all countries)
- Temporary is not interpreted the same way in each jurisdiction
- Assignment letter to review in the context of the taxing jurisdictions

Q & A



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