

# The WAY OUT of THE MAZE

## Tax compliance for non-resident performers and companies touring in Canada

Every person or entity who pays a non-resident person or entity a fee, commission or other amount for services rendered in Canada must proceed with a tax withholding from such payments. But that is only the beginning of the complex story behind Part XIII of the Income Tax Act, Regulation 105 and Regulation 102 and the infamous Artistes and Sportsmen/Athletes Article found in many OECD Tax Treaties (Article 17).

This model is a basic overview of the steps non-resident performers and touring companies must satisfy to achieve tax compliance before and after performing in Canada.



**RC59:** Business consent form is required to authorize someone to speak to CRA on behalf of company. T1013 form is used for an individual or a non-incorporated group.

**RC1:** Request for a Business Number is required for any company or association rendering services in Canada. Fill out sections A1 to A4, E and F only. Note: this request will generate a CRA Employer payroll account and a GST/HST (Goods and Services Tax/Harmonized Sales Tax) registration request.

**T1261:** Application for a Canada Revenue Agency Individual Tax Number (ITN) for Non-Residents is required for all individuals coming to render services in Canada. The ITN form and a certified copy of the individual's passport must be sent by mail only.

**R105:** Regulation 105 Waiver Application can be filed by touring individuals and companies in order to obtain a waiver letter authorizing the Canadian payer to proceed with payments to non-residents with a full or partial waiver of the 15% withholding obligation. Information to be provided include Company ownership and Touring party information, detailed performing fees and other revenues of past, present and future touring engagements, # of days in Canada. Supporting documents include signed contracts and in some cases an Income and Expense statement, including detailed invoices and agreements documenting future services.

**Note:** The primary R105 Waiver Application, for payments between the Canadian presenter/promoter and the non-resident touring company/artist, includes secondary R105 (subcontractors) and/or R102 (employees) Waiver applications, for payments made by the non-resident touring company/artist to its touring personnel rendering services in Canada.

**T4A-NR Summary - Fees, Commissions, or Other Amounts Paid to Non-Residents for Services Rendered in Canada must be filed by February 28<sup>th</sup> of each year to declare individual T4A-NR issued and withholdings remitted as per PD7A. Non-compliance penalty: up to \$1,000.**

**T2 Form:** Corporation Income Tax Return should be filed by June 30th of following calendar year a corporation receives payment for services rendered in Canada. Schedule 97: Additional Information on Non-Resident Corporations in Canada and Schedule 91: Information Concerning Claims for Treaty-Based Exemptions should also be included along with Income and expenses for non-treaty based filings. **Non-compliance penalty: \$2,500.**

**5013-R T1:** Individual Tax return should be filed, in some cases, by an individual receiving a T4A-NR from a Canadian or non-resident payer.

**PD7 A:** A statement of accounts for current source deductions, which must be used to remit to the Canada Revenue Agency (CRA) all income tax deductions on payments to non-resident staff and subcontractors.

**T4A-NR:** Statement of Fees, Commissions, or Other Amounts paid to Non-Residents for Services Rendered in Canada must be issued by the Canadian payer to any non-resident payee but ALSO must be issued by a non-resident corporation or payer to non-resident employees or sub-contractors (performers or production personnel) working in Canada

**Disclaimer:** This model is based on an empirical review of present "best practices". It is not intended as a guide but rather as an overview of the basic obligations non-resident performers must satisfy to achieve tax compliance in Canada. For further assistance or any questions relating to a specific case, please contact the Canadian Revenue Agency.

<http://www.cra-arc.gc.ca/cntct/ntnrtnlngqs-eng.html>