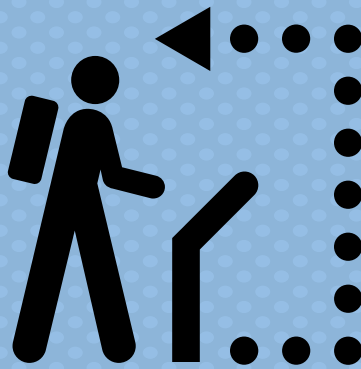


BAM! Complete Guide to Taxation-Canada

by Robert Baird



#14

A guide to taxation in Canada
for foreign artists

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Introduction

This guide is for foreign artists who perform in Canada as non-resident guest artists. A non-resident individual is in Canada fewer than 183 days annually and has no significant residential ties to this country (a home in Canada, Canadian spouse resident in Canada, personal property, etc.); a non-resident business has no permanent establishment in Canada. Under Canada's tax system, non-resident individuals or businesses are required to file a Canadian tax return to determine any final tax obligation for every year in which the individual or business was active in Canada. The tax and withholding requirements for artists who are considered "resident" in Canada by virtue of longer employment or as a student, etc. will be quite different from the discussion in this guide.

Since it is impossible to address specific circumstances for a foreign individual or business earning income in Canada, you may need to consult with a tax specialist with knowledge of the performing arts industry.

Note: This Guide is divided into two sections: Non-resident Individuals and Non-resident Businesses.

A. Non-resident Individuals

Non-Resident Withholding

Revenue Canada requires that anyone paying a foreign artist for services in Canada must withhold 15% of the fee, including any deposits which may be made to the artist or an agent. The payer can be anyone or any company in Canada, or a foreign individual or company. This tax can be waived through the filing of an R-105 Waiver with Revenue Canada and, if successful, Revenue Canada will inform all Canadian employers of the necessity to not withhold this 15% tax. The waiver can be based on the provisions of one of the many [tax treaties](#) Canada has with other countries, or on the basis of an income/expense statement. If the waiver is unsuccessful and 15% is withheld, then the artist can file a Canadian tax return the following year to possibly obtain a refund of this tax. In any case, an artist who gets a successful waiver is required to file a Canadian tax return. Failure to file a Canadian income tax return the year following a successful waiver application will result in non-resident individuals being prevented from applying for waivers in the future. If a waiver was provided in a previous year and a return has not been filed for that year then, prior to any subsequent waiver being issued, the tax returns must be up-to-date. (See [BAM! Complete Guide to Withholding – Canada](#)). Note that, if you have withholding assessed, and/or you pay additional taxes in Canada, you may be able to get a credit in the U.S for the tax you paid in Canada. The Tax Treaty between Canada and the U.S. allows you to use the T4A-NR tax slip to obtain a credit against your U.S. income, which may or may not be beneficial to you in terms of your United States tax situation.

T4A-NR Slips

Every payer of non-resident individuals, partnerships or corporations for services provided in Canada must report the 15% withholding on fees, commission, deposits, etc. using a T4A-NR slip. The payer can be anyone or any company in Canada, or a foreign individual or company. In most cases the T4A-NR slip will be provided by the Canadian venue where the artist is performing, but T4A-NR slips can (and should) be provided by foreign firms hiring non-resident performers to work in Canada. The T4A-NR slip must be given to recipients on or before the last day of February following the calendar year to which the slips apply. The penalty for failing to distribute T4A-NR slips to recipients is CAN\$25 per day for each such failure with a minimum penalty of CAN\$100 and a maximum penalty of CAN\$2500.

Need for a Tax Number

A non-resident individual needs to have an Individual Tax Number (ITN) to file a tax return (or to apply for an R-105 Waiver – See [BAM! – Complete Guide to Withholding – Canada](#)), unless they have a Social Insurance Number issued by Service Canada. To obtain an ITN, file [Form T1261 - Application for a Canada Revenue Agency Individual Tax Number \(ITN\) for Non-Residents](#), along with the required supporting certified documents.

Tax Filing Requirements

Non-residents who have carried on business in Canada must file a Canadian income tax return to calculate their tax liability, to get a refund of any excess amounts that were withheld, or simply to confirm that they do not have any tax liability. Even in instances of unsuccessful waiver applications, the non-resident individuals are still expected to file a Canadian tax income return. Failing to file a return will result in penalties being assessed.

Filing a Return

For individuals, a [T1 – General – Income Tax and Benefit Return](#) for the province or territory where the individual earned the income must be filed by April 30 of the following year or by June 15 of the following year if the individual is carrying on business in Canada. In either case, if the individual has a balance owing for the year, it must be paid on or before April 30 of the following year. For partnerships, each member of the partnership must file the appropriate income tax return (T1 or T2) within the required time. Note that there are certain required schedules as well which must accompany the tax return: [Statement of World Income \(Schedule A\)](#); [T2125 Statement of Business or Professional Income](#).

Send the returns to the following address:

International and Ottawa Tax Services Office

Office/Courier address:

2204 Walkley Road
Ottawa ON K1A 1A8 CANADA

Mailing address:

Post Office Box 9769, Station T
Ottawa ON K1G 3Y4 CANADA

[Additional information for non-resident individuals](#)

Appointment of a Representative

You can appoint a representative to deal with Revenue Canada on your behalf by filing [T1013 Authorizing or Cancelling a Representative](#). Your representative will be able to access and even change your income tax information. You specify a level of authorization for the tax year or years you indicate on the form. You can have more than one representative by filling out a separate form for each representative. You can also cancel a representative with this form.

B. Non-resident Businesses

Non-Resident Withholding

Revenue Canada requires that anyone paying a foreign artistic company for services in Canada must withhold 15% of the fee, including any deposits which may be made to the company or an agent. The payee can be anyone or any company in Canada, or a foreign individual or company. This tax can be waived through the filing of an R-105 Waiver with Revenue Canada and, if successful, Revenue Canada will inform all Canadian employers of the necessity to not withhold this 15% tax. The waiver can be based on the provisions of one of the many [tax treaties](#) Canada has with other countries, or on the basis of an income/expense statement. If the waiver is unsuccessful and 15% is withheld, then the company can file a Canadian tax return the following year to possibly obtain a refund of this tax. In any case, a company which gets a successful waiver is required to file a Canadian tax return. Failure to file a Canadian income tax return the year following a successful waiver application will result in non-resident companies being prevented from applying for waivers in the future. If a waiver was provided in a previous year and a return has not been filed for that year then, prior to any subsequent waiver being issued, the tax returns must be up-to-date. (See [BAM! Complete Guide to Withholding – Canada](#)). Note that, if you have withholding assessed, and/or you pay additional taxes in Canada, you may be able to get a credit in the U.S for the tax you paid in Canada. The Tax Treaty between Canada and the U.S. allows you to use the T4A-NR tax slip to obtain a credit

against your U.S. income, which may or may not be beneficial to you in terms of your United States tax situation.

T4A-NR Slips and Summary

Every payer of non-resident individuals, partnerships or corporations for services provided in Canada must report the 15% withholding on fees, commission, deposits, etc. using a T4A-NR slip. The payer can be anyone or any company in Canada, or a foreign individual or company. In most cases the T4A-NR slip will be provided by the Canadian venue where the artist is performing, but T4A-NR slips can (and should) be provided by foreign firms hiring non-resident performers to work in Canada. The T4A-NR slip must be given to recipients on or before the last day of February following the calendar year to which the slips apply. The penalty for failing to distribute T4A-NR slips to recipients is CAN\$25 per day for each such failure with a minimum penalty of CAN\$100 and a maximum penalty of CAN\$2500. In addition to providing T4A-NR slips, a payer must also submit a T4A-NR Summary to Revenue Canada no later than the last day of February following the calendar year to which the summary applies. The penalty for failing to file a timely T4A-NR Summary carries a maximum penalty of CAN\$7500. Note that if a payer is required to withhold 15% then that amount must be remitted to Revenue Canada on or before the 15th day of the month **following** the month the amount was paid or credited to the non-resident. Failure to remit carries significant penalties. Note: You will need to have a [Revenue Canada Payroll Account](#) in order to remit.

Need for a Tax Number

A non-resident company needs to have a Business Number to file a tax return (or to apply for an R-105 Waiver – See [BAM! – Complete Guide to Withholding – Canada](#). To obtain a Business Number, file [Form RC-1 Request for a Business Number \(BN\)](#), along with a Certificate of Incorporation.

Tax Filing Requirements

Non-residents who have carried on business in Canada must file a Canadian income tax return to calculate their tax liability, to get a refund of any excess amounts that were withheld, or simply to confirm that they do not have any tax liability. Even in instances of unsuccessful waiver applications, the non-resident companies are still expected to file a Canadian tax income return. Failing to file a return will result in penalties being assessed.

Filing a Return

For companies, a [T2 – Corporation Income Tax Return](#) must be filed within six months after the end of each tax year. The tax year of a corporation is its fiscal period or no later than June 15 of

the following year if the company has carried on business in Canada. Note that there are certain required schedules as well which must accompany the tax return: [Schedule 20](#); [Schedule 24](#); [Schedule 91](#); [Schedule 97](#); [Schedule 125](#)

Send the returns to the following address:

International and Ottawa Tax Services Office

Office/Courier address:

2204 Walkley Road

Ottawa ON K1A 1A8 CANADA

Mailing address:

Post Office Box 9769, Station T

Ottawa ON K1G 3Y4 CANADA

Appointment of a Representative

You can appoint a representative to deal with Revenue Canada on your behalf by filing [RC 59 Business Consent](#). Your representative will be able to access and even change your income tax information. You specify a level of authorization for the tax year or years you indicate on the form. You can have more than one representative by filling out a separate form for each representative. You can also cancel a representative with this form.

[Additional information for non-resident corporations](#)

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Consulting website: www.bairdartists.com



Robert Baird, President of Baird Artists Management, is now available for consultation and advice regarding Canadian and U.S. regulations and information for performers, agents/managers and performing arts venues. Mr. Baird has been in the performing arts for over fifty years and has had distinguished careers in education, publishing and musical theatre. He served on the Board of Directors (2008-2010) and was President (2011-2013) of the North American Performing Arts Managers and Agents (NAPAMA). He was Treasurer and Vice-President of Festivals and Events Ontario (FEO) and served on that Board on various committees (2010-2013). Mr. Baird received the Arts Northwest Coyote Award and the Performing Arts Exchange Mary Beth Treen Award in 2012. He is Chair of Team Agent Network (TAN) and APAP Showcase Coordinator.

Robert is a regular columnist in *International Musician: The Official Journal of the American Federation of Musicians of the United States and Canada* (Circulation 100,000+ Monthly) where he writes a monthly column entitled "Crossing Borders". The column focuses on what artists need to know to get into Canada or the United States. He also writes a monthly column entitled "Artist Manager's Toolkit" for *International Arts Manager*, based in London, England.

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