

Emigrating from Canada

A taxpayer will cease to be a Canadian resident on departure from Canada, provided that they have severed their residential ties with Canada. Where a taxpayer is considered a resident of Canada and another country under both sets of domestic laws, the income tax treaty between the two countries should be referred to in order to determine residency.

On departure from Canada, a taxpayer is deemed to have disposed of most of his or her property for proceeds equal to fair market value. The deemed dispositions are reported on Schedule 3 and Form T1243 attached to taxpayer's income tax return for the year of emigration. Some notable exceptions from the deemed disposition rules are Canadian real property, property used in a business with a permanent establishment in Canada and retirement savings plan assets, which Canada retains the right to tax.

A taxpayer can file Form T1244 to defer the payment of departure tax arising on the deemed disposition of his or her assets. If the federal departure tax exceeds \$14,500 the taxpayer must post security for that tax with the Canada Revenue Agency.

Form T1161 must be filed by the taxpayer for the year of emigration if they depart Canada with reportable property greater than \$25,000. Some notable exceptions from reportable property are cash or deposits of cash, retirement savings plan assets and any personal-use property with a fair market value of less than \$10,000.

For Canadian tax purposes, retirement savings plan assets are not deemed disposed of at fair market value on departure. Income accruing inside the plan of a non-resident is not taxable on an annual basis, but rather subject to tax on withdrawal. For U.S. persons, a treaty-based election will need to be made on Form 8891 to ensure that the income accruing inside the plan annually is not subject to U.S. tax. The maximum withholding tax rate on distributions from a retirement savings plan is 25%. A taxpayer departing Canada may be better off withdrawing assets from the retirement savings plan following their departure.

A non-resident taxpayer will continue to be taxable in Canada at graduated rates only to the extent of employment income earned in Canada, business income earned at a permanent establishment in Canada and taxable capital gains from dispositions of taxable Canadian properties.

Other Canadian source income such as interest, dividends and rental income will be subject to fixed withholding rates ranging from 0% to 25%. In order to recover tax paid on gross rental income at the rate of 25%, a non-resident taxpayer can pay tax on net rental income at graduated rates by filing a personal tax return within two years after the end of the year. A non-resident taxpayer can also elect with the Canada Revenue Agency to withhold during the year based on 25% of net income, provided a personal tax return is filed within 6 months after the end of the year.