



**Be adventurous.**  
Making your tax world easier to travel.

GTN Newsletter – August 2019

## A Look Into Business Travelers – Canada, the UK, and the US

**David Livitt, Director/National Practice Leader, Business Traveler Services**

GTN Atlantic

phone: +1.646.915.3301 | email: [dlivitt@gtn.com](mailto:dlivitt@gtn.com)

### *A three-part series dispelling the 183-day myth*

If you manage the business travelers for your company, you have likely seen articles and blogs about the [trends of managing business traveler risks](#). While these articles tend to focus on the use of technology, the need for tracking your employees, the interaction with internal departments with vested interests, and what to do with all the data that is available, they don't really cover what you need to think about in the earlier stages:

- How to build the business case
- How to manage complexity
- What will all this mean for the business

When managing your business traveler population, it is worth remembering that buried in the process, policy, and data analytics is a need to meet one of the primary requirements for having a policy in the first place: **individual income tax reporting requirements**.

Globally, there are a number of countries that expect the employer and/or employee to track and report business travel as a non-resident. Simply applying a "183 day" threshold is not going to work. In this three-part series, we will take a deeper look into the rules for three countries that see a lot of business traveler activity: Canada, the UK, and the US. These three countries are very clear on what inbound business travelers need to do from a statutory requirement and, in the case of Canada and the UK, also offer some assistance with reporting.

In Part One of this three-part look into business travelers, we will explore Canada and review:

1. Canadian Bill C-21
2. Reporting requirements and obligations
3. Withholding waiver options

### **Part One: Business Travelers into Canada**

Canada has issued rules and guidance for inbound business travelers. Based on these rules and guidelines, it is crucial for multinational companies doing business in Canada to have visibility into their employees' travel and to be aware of the risk and compliance implications of this travel. The Canada Revenue Agency (CRA) has increased its audit activities in this area and has begun enforcing the rules even for short-term business travelers into Canada and making sure payroll reporting and withholding obligations are met for frequent business travelers.

#### **Canadian Bill C-21**

In December 2018, a Canadian bill (Bill C-21), received Royal assent. This bill authorizes the Canada Border Services Agency (CBSA) to collect personal information on all persons who are leaving or have left Canada. Previously, the Canadian authorities did not have reliable exit information on all persons leaving Canada, limiting their ability to properly enforce regulations (including immigration and tax).

The bill allows for additional sharing of information between the CBSA and CRA. Beginning July 11, 2019, Canada and the US have begun to exchange basic demographic details (such as full names and date of birth) on all travelers at the land border, so that entry into one country serves as an exit record from the other. It is expected to be in-force by June 2020 for air travel. This means increased information sharing between internal agencies to ensure employers and employees are being compliant. Note that Canada is not the first country to implement procedures for sharing information and it is expected that more countries will begin to do so as well.

As with many countries, there is no minimum day or dollar threshold recognized by the CRA for reporting obligation and payroll withholding compliance. Obligations exist for even one day of travel for an employee into Canada making this a hot topic that should be top of mind.

### **Reporting requirements and obligations**

The CRA reporting requirements state that employers are required to prepare and file a T4 Information Return reporting all amounts paid to their employees, even for those expected to be exempt under an income tax treaty. The T4 Information Return must be submitted to the CRA by the end of February in the following year (i.e., the return for calendar year 2019 will be due by the end of February 2020). The employee will also be required to file a Canadian income tax return to report the income less the amount exempted under the treaty provisions. The individual income tax return is due by April 30 of the following year and penalties may apply if this filing is not met.

As mentioned, from an income tax withholding perspective, there is no minimum threshold. However, for employees exempt from Canadian income tax under a treaty, employers can apply for a withholding waiver. The withholding waiver allows for a full reduction of Canadian income tax withholding on employment income. The waiver application should be made 30 days prior to the provision of services in Canada and must be approved by the CRA. This is not always practical or possible and so the employer is faced with having to withhold and remit tax to fully comply with their payroll obligations. Obtaining an approved waiver from the CRA does not eliminate an employer's obligation to prepare and file a T4 Information Return.

In addition to income tax, employers should consider the social tax position for their business travelers. Canada has concluded totalization agreements with a number of countries that can allow an employee to remain on Home country social security for temporary periods of employment in Canada (i.e., typically for assignments of up to five years). To provide for exemption, an application for a Certificate of Coverage should be requested from the Home country Social Security Administration. In general, these certificates would not be required under the US – Canada agreement for scenarios of 183 days or less.

To illustrate these compliance requirements, consider the case of a business traveler who arrives in Canada to work for a period of 60 days. For this example, the income of the business traveler will not be cross-charged/borne by the Canadian entity and the employee will qualify to obtain an exemption from Canadian income tax under the income tax treaty. The Company withholding and reporting obligations and the employee tax filing obligations are summarized as follows:

Withholding: The employer is required to file a waiver in advance of the travel to Canada. If this is not possible, tax withholdings should be remitted for the period of time the employee is in Canada.

Company Reporting: A T4 would need to be issued by the employer to report taxable wages. Note that the T4 would still generally need to be issued even if a withholding waiver was obtained.

Employee Tax Filing: A Canadian tax return would need to be filed by April 30 of the following year to reclaim the tax withholdings via the tax return. The tax return would generally still be required to claim treaty exemption even if there was no withholding on the T4.

### **Withholding waiver options**

There are two types of withholding waivers for income tax purposes:

Regulation 102 Waiver (Form R102-R): This waiver provides an exemption from withholding for a non-resident employee working in Canada who is exempt from tax in Canada under an income tax treaty between Canada and

the employee's country of tax residence. It is necessary to review the tax treaty between Canada and the Home country to determine if this waiver will apply.

Regulation 102 waivers must be applied for on an individual basis. The employee filing must have a Social Insurance Number or Individual Tax Number (ITN), and the ITN can be applied for with the waiver. The Regulation 102 waiver is applied for annually.

**RC473 Waiver:** This waiver exempts the employer from withholding provided that the employer is a qualifying non-resident employer. It applies for employees working for less than 45 days in Canada in a calendar year, or those present in Canada for less than 90 days in a 12-month period.

If the conditions for the RC473 waiver are ultimately not met, the employer and employee would not then qualify for a withholding exemption. In this case, the employer would either need to 1) apply for a Form R102-R waiver or 2) remit tax withholdings for the employee.

The RC473 waiver is a "blanket" withholding waiver that can be used for all employees meeting the criteria (i.e., it does not have to be applied for on an individual basis). It is important to note that having a blanket waiver approved and in place does not fully absolve the company of its filing requirements: under an RC473 waiver, T4s are still required for employees with income earned in Canada above C\$10,000. The RC473 waiver is applied for every two years.

Due to the recent Bill C-21 and expected increased audit activity on employees traveling into Canada, a review of your [business traveler activity](#) and risk assessment is recommended. For assistance with this review or for further details on the requirements, please contact me at [dlivitt@gtn.com](mailto:dlivitt@gtn.com) or at +1.646.915.3301. Additionally, you can visit our [Mobility Tax Services page](#) to see what assistance we can provide.

Stay tuned for parts two and three in our business traveler series where we will highlight requirements for business travelers into the UK and US.

*The information provided in this article is for general guidance only and should not be utilized in lieu of obtaining professional tax and/or legal advice.*

**Author: David Livitt**



David Livitt is Director / National Practice Leader, Business Traveler Services at GTN. He has over 18 years' experience in the area of mobility tax working with multinational companies of all sizes, assisting them and their employees to navigate the complexities that come with global mobility programs. Over the last 10 years, there has been a growing trend to assist companies with their short-term business traveler populations to develop user experience and global governance structures, policy design, process management and technology enabled solutions with a view to managing both corporate and employee individual tax compliance. David has successfully led and implemented a number of global business traveler projects. +1.646.915.3301 | [dlivitt@gtn.com](mailto:dlivitt@gtn.com)

