Canada Revenue Agency

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Interpretation Bulletin IT-91R4

Employment at Special Work Sites or Remote Work Locations



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REFERENCE: Subsection 6(6) (also subsections 6(1), 110.7(1), (2) and (4), and the definition of "self-contained domestic establishment" in subsection 248(1); and paragraph 250(1)(a) of the INCOME TAX ACT; and section 7303.1 of the INCOME TAX REGULATIONS)

Application

This bulletin cancels and replaces Interpretation Bulletin IT-91R3 dated May 22, 1984 and the Special Release to IT-91R3 dated March 20, 1987.

Summary

Generally, all benefits received or enjoyed by an employee from an office or employment are taxable. Subsection 6(6) provides an exception to this general rule by allowing certain benefits related to special work sites or remote work locations to be excluded from income.

This bulletin discusses the requirements that an employee must meet in order to exclude from income the value of, or an allowance received in respect of expenses incurred for, board and lodging at a special work site or remote work location. If an employee meets these requirements, the employee can also exclude certain transportation benefits or allowances from income. The bulletin also discusses the meaning of various relevant expressions such as "duties of a temporary nature," "principal place of residence," "self-contained domestic establishment," and "remoteness from an established community." In addition, the bulletin explains in general the interaction between the rules for special work sites, remote work locations and the northern residents deductions. The bulletin also comments on the use of Form TD4, DECLARATION OF EXEMPTION – EMPLOYMENT AT SPECIAL WORK SITE. Appendix I provides an overview of the requirements for the special work site or remote work location

exclusion and Appendix II shows how the rules for special work sites and remote work locations generally interact with those for the northern residents deductions.

Discussion and Interpretation

1. Generally, an allowance paid to an employee and the value of employer-provided board and lodging or transportation to and from the

job are included in the employee's income under the rules in subsection 6(1). These rules also apply to amounts paid to reimburse outlays by an employee for meals, lodging, transportation or other items which are personal or living expenses. However, by virtue of subsection 6(6), an exception to these rules is provided in limited circumstances. When the requirements set out in subsection 6(6) are met, an employee can exclude from income:

- the value of employer-provided board and lodging, or an allowance received in respect of expenses incurred for board and lodging, at a special work site (see 4 below) or remote work location (see 12 below); and
- the value of certain employer-provided transportation or an allowance received in respect of certain transportation expenses (see 10 and 18 below).

Initial and terminal transportation

2. Regardless of whether an employee qualifies for the exclusion under subsection 6(6), no amount is included in the employee's income for transportation, or a reimbursement of transportation

expenses, provided by an employer in respect of transportation to and from a special work site or a remote work location at the commencement and the completion of employment (commonly referred to as initial and terminal transportation).

Check-out allowance

3. Under some employment contracts, an employee who stays at a special work site or remote work location during the week will be paid a "check-out allowance" when he or she is away for the weekend. This allowance usually represents the value of board and lodging that the employee forgoes when checking out and may also include amounts for transportation. Such allowances, provided they are reasonable in the circumstances, are not considered taxable if the board and lodging and transportation allowances normally paid to the employee while working at the special work site or remote work location are not taxable by reason of subsection 6(6).

Special Work Sites

Board and lodging

4. Subsection 6(6) excludes from the income of an employee the value of, or an allowance (not in excess of a reasonable amount) received in respect of expenses incurred by the employee for, board and lodging for a period (see (c) below) at a special work site ("special work site exclusion"). For the special work site exclusion to apply, all of the following requirements must be met:

- (a) the employee must have worked at a special work site, being a location at which the duties performed by the employee were of a temporary nature (see 5 and 6 below);
- (b) the employee maintained at another location a self-contained domestic establishment as the employee's principal place of residence (see 7 and 8 below)
 - that was, throughout the period, available for the employee's occupancy and not rented by the employee to any other person, and

 to which, by reason of distance, the employee could not reasonably be expected to have returned daily from the special work site (see 9 below);

and

(c) the period while the employee was required by his or her duties to be away from the employee's principal place of residence, or to be at the special work site, was at least 36 hours.

The period of at least 36 hours referred to above may include time spent travelling between the employee's principal place of residence and a special work site.

Duties of a temporary nature

5. The expression "duties performed by the taxpayer were of a temporary nature" as used in subparagraph 6(6)(a)(i) (see 4(a) above) refers to the duration of the duties performed by the individual employee, not the expected duration of the project as a whole. For example, a project might take ten years to complete but the individual's duties at that project might take only a few months.

6. The term "temporary" is not defined in the INCOME TAX ACT. However, as a general rule, duties will be considered to be of a temporary nature if it can reasonably be expected that they will not provide continuous employment beyond a period of two years. The determination of the expected duration of employment must be made on the basis of the facts known at its commencement. In this regard, particular consideration should be given to the following factors:

- the nature of the duties to be performed by the employee (certain types of work are, by their nature, short term engagements, such as repair work or trades which are involved only during a certain phase of a project);
- the overall time estimated for a project, or a particular phase of a project, on which the employee is engaged to perform duties; and
- the agreed period of time for which the employee was engaged according to the employment contract or other terms of the engagement.

Should these factors change after employment commences, it may be necessary to redetermine whether the duties undertaken by the employee are considered to be of a temporary nature for the purposes of the special work site exclusion.

Principal place of residence

7. An employee's "principal place of residence" is the place where the employee maintains a self-contained domestic establishment. The term "self-contained domestic establishment" is defined in subsection 248(1) as a dwelling-house, apartment or other similar place of residence where a person generally sleeps and eats. A residence is considered to be a self-contained domestic establishment if it is a living unit with restricted access that contains a kitchen, bathroom, and sleeping facilities. A room (or rooms) in a hotel, dormitory, boarding house or bunkhouse would not ordinarily be a self-contained domestic establishment. Where an employee maintains more than one self-contained domestic establishment (for example, the employee maintains a temporary place of residence at the work site while having a principal place of residence elsewhere), only the employee's principal place of residence has to meet the requirements set out in 4(b) above.

8. A principal place of residence does not necessarily have to be in Canada. For example:

- a United States resident may be a construction worker sojourning in Canada, and may be subject to income tax in Canada because he or she is deemed by paragraph 250(1)(a) to be a resident of Canada by reason of being in Canada 183 days or more in the year. In these circumstances, for the purposes of subsection 6(6), the principal place of residence is the worker's home in the United States; or
- a non-resident, who stays in Canada for a short period of time, such as at a farm during harvesting, may maintain a self-contained domestic establishment outside Canada. In these circumstances, the non-resident's principal place of residence is in the country outside of Canada.

9. There may be instances when the special work site is located near the employee's principal place of residence. In such circumstances, if the employee otherwise qualifies for the special work site exclusion under subsection 6(6), the employee must establish that he or she could not reasonably be expected to return daily to his or her principal place of residence. This requirement will not be met if, in fact, the employee returns daily to his or her principal place of residence. As a general rule, an employee will not be expected to return to his or her principal place of residence if the work site is more than 80 kilometres (50 miles) from the employee's residence by the most direct route normally travelled in the circumstances. Cases not meeting this general rule are not necessarily disqualified from the exclusion under subsection 6(6) and factors such as the following will be considered:

- the number of hours of work which the employee is required to perform at the special work site each shift;
- the amount of time that would be required for travel and the time of day or night when travel would take place;
- the means of transportation available and the condition of the route that would be travelled (e.g., quality of roadway, seasonal weather conditions, etc.);
- the length of rest period if the employee returned home daily; and
- the general physical and mental health of the employee.

Transportation benefits or allowances

10. Paragraph 6(6)(b) allows an employee to exclude from income the value of free or subsidized transportation, or an allowance (not in excess of a reasonable amount) received for transportation expenses incurred by the employee, in respect of a period described in 4(c) above if the employee received board and lodging, or a reasonable allowance in respect of board and lodging, from his or her employer for that period. The employer-provided transportation or allowance must relate to transportation between the employee's principal place of residence and the special work site. Accordingly, any transportation assistance relating to travel between a special work site and a location other than the employee's principal place of residence (e.g., a temporary place of residence) will not be excluded from income under paragraph 6(6)(b).

Declaration of exemption

11. Where the requirements for the special work site exclusion (see 4 above) are met, the employee and the employer should complete Form TD4, DECLARATION OF EXEMPTION – EMPLOYMENT AT SPECIAL WORK SITE, so that the relevant benefit or allowance can be excluded

from the employee's income. Form TD4 requires the exact location of a special work site and the distance between an employee's principal place of residence and the special work site. This may present problems where a work site moves frequently, such as when a pipeline is being constructed. In these cases, the near and far limits of the work project should be described. For example, if a pipeline is being constructed between two towns, the location could be described as the length of the pipeline between the two towns, such as "225 kilometres of 1 metre pipeline between Town A and Town B" and the distance between the principal place of residence and the work

site can be described as the distance from the residence to the near and far limits of the project, such as "180 to 405 kilometres."

Remote Work Locations

Board and lodging

12. Subsection 6(6) allows the value of, or an allowance (not in excess of a reasonable amount) received in respect of expenses incurred by an employee for, board and lodging for a period (see (b) below) at a remote work location to be excluded from employment

income ("remote work location exclusion"). For the remote work location exclusion to apply, the following requirements must be met:

- (a) the employee must have worked at a remote work location, being a location at which, by virtue of its remoteness from any established community (see 14 to 17 below), the employee could not reasonably be expected to have established and maintained a selfcontained domestic establishment (as described in 7 above); and
- (b) the period while the employee was required by the employee's duties to be at the remote work location was at least 36 hours.

13. As noted in 12(a) above, the first test is whether the employee could reasonably be expected to establish and maintain a self-contained domestic establishment at the work location. Such a determination is made based on the facts of the particular case. If the employee has a reasonable expectation of establishing and maintaining a self-contained domestic establishment, the remote work location exclusion, of course, will not apply. A reasonable expectation is considered to exist in the following circumstances:

 the employer provides a self-contained domestic establishment to the employee at the work location;

- the employee is drawn from the local community itself where the employee's housing has already been established;
- the employee opts to buy property and builds his or her own selfcontained domestic establishment; or
- the employee rents a self-contained domestic establishment at the work location.

Remoteness from an established community

14. If an employee could not reasonably be expected to establish and maintain a self-contained domestic establishment at the work location, the next test is whether this inability is due to the location's remoteness from an established community. When determining whether a work location is in fact remote from an established community, factors such as the following will be considered:

- the availability of transportation;
- the distance from an established community; and
- the time required to travel that distance.

As a general rule, a work location will be considered to be remote if the nearest established community with a population of 1,000 or more is no closer than 80 kilometres (50 miles) by the most direct route normally travelled in the circumstances. Cases not meeting this general rule are not necessarily disqualified from the exclusion under subsection 6(6) and will be considered on their merits. If the work location is not remote from an established community, or if the work location itself can be considered an established community, the employee will, subject to 16 below, not qualify for the remote work location exclusion.

15. The term "established community" is considered to mean a body of people who reside in the same locality and who are permanently settled in that location. A location will not be considered an established community if it lacks essential services or such services are not available within a reasonable commuting distance. In general, essential services would include:

- a basic food store;
- a basic clothing store with merchandise in stock (not a mail-order outlet);

- housing; and
- access to certain medical assistance and certain educational facilities.

16. Where an established community is in an area which is not remote (based on the general rule in 14 above) from a work location, the location will still meet the requirements of 12(a) above if community services and (available) housing are limited to the extent that employees could not reasonably be expected to establish and maintain at that community a self-contained domestic establishment. Where there is more than one established community located in an area which is not remote from a work location, the sum total of the services and housing available in all established communities should be considered.

17. Where the remote work location exclusion in subsection 6(6) applies for the reason that an employee could not reasonably be expected to establish and maintain a self-contained domestic establishment at a community that is not remote from a work location, an improvement in service and an increase in the availability of housing at the community could result in a change in tax status.

Conversely, an established community could become a remote work location if sudden growth renders the community's essential services insufficient. For example, an employer brings in a large number of employees to a small town and the town cannot accommodate the influx. As a result, ongoing reviews of the services and housing available in a community may be necessary in order to determine whether the exclusion in subsection 6(6) continues to apply.

Transportation benefits or allowances

18. Paragraph 6(6)(b) provides that an employee who received board and lodging, or a reasonable allowance in respect of board and lodging, for a period described in 12(b) above, will not be required to include in income free or subsidized transportation, or an allowance (not in excess of a reasonable amount) for transportation expenses incurred, in respect of that period. The employer-provided transportation or allowance must relate to transportation between the remote work location and a location anywhere in Canada or, in the case of an employee working at a remote work location in another country, a location in that country.

Northern Residents Deductions

19. After 1994, an individual may be entitled to claim the northern residents deductions under subsection 110.7(1) if the individual resided in an area which is a prescribed northern or intermediate zone (referred to in this bulletin as a "prescribed zone"), as defined in section 7303.1 of the Regulations, for a period of at least six consecutive months beginning or ending in a taxation year. (Under a special transitional rule, the deductions were also available for years before 1995 to an individual who was resident outside a prescribed zone but in an area that fell within the definition of a "prescribed area" in former section 7303 of the Regulations.) The northern residents deductions consist of a deduction in respect of certain travel benefits in paragraph 110.7(1)(a) and a deduction in respect of living costs in paragraph 110.7(1)(b) ("residency deduction"). Generally, the deduction for travel is available in respect of benefits provided by an employer to an employee or a member of the employee's household for travelling expenses incurred in connection with any number of trips made to obtain medical services not available locally and a maximum of two trips per year for other reasons, to the extent that the value of the benefits is included in employment income. The residency

deduction is determined using a daily rate and is equal to the lesser of:

- (a) 20% of the individual's income for the year; and
- (b) the total of amounts obtained by taking the specified percentage (defined in subsection 110.7(2) as 100% for a prescribed northern zone and 50% for a prescribed intermediate zone) for a particular area and multiplying it by:
 - \$7.50 for each day in the year in the period in which the individual resided in the particular area (clause 110.7(1)(b)(ii)(A)); and
 - an additional \$7.50 for each day in the year in the period that the individual maintained and resided in a self-contained domestic establishment in the particular area and no other individual residing in that establishment claimed a residency deduction for that day (clause 110.7(1)(b)(ii)(B)).

For more information on the northern residents deductions, see the current version of the supplementary income tax guide, NORTHERN RESIDENTS DEDUCTIONS.

Special work sites and northern residents deductions

20. An employee who qualifies for the special work site exclusion (see 4 to 11 above) may also be eligible for the northern residents deductions if the employee maintained a self-contained domestic establishment as his or her principal place of residence in a prescribed zone and the other requirements in subsection 110.7(1) are met. However, if the employee maintained a principal place of residence outside a prescribed zone, the employee may still qualify for a portion of the northern residents deductions provided the special work site is located in an area which is a prescribed zone and the employee resided at the site for at least six consecutive months. In such cases, when calculating the residency deduction for a year, the employee is required to reduce the amount otherwise determined in 19(b) above by the amount of board and lodging benefits or allowances excluded from income under subparagraph 6(6)(a)(i) to the extent provided by subsection 110.7(4).

Remote work locations and northern residents deductions

21. Depending on the circumstances, an employee working at a remote work location may qualify for the remote work location

exclusion as well as all or a portion of the northern residents deductions.

- (a) An employee who qualifies for the remote work location exclusion under subsection 6(6) and maintained a self-contained domestic establishment in another area, which is a prescribed zone, will also be entitled to the full northern residents deductions if the employee meets the other requirements in subsection 110.7(1). Where an employee who qualifies for the remote work location exclusion did not maintain a self-contained domestic establishment in a prescribed zone or the employee maintained a self-contained domestic establishment outside a prescribed zone, the employee may still qualify for a portion of the northern residents deductions provided the remote work location is located in a prescribed zone and the other requirements of subsection 110.7(1) are met. (Such an employee would not be entitled to the additional \$7.50 per day provided by clause 110.7(1)(b)(ii)(B) see 19(b) above)
- (b) An employee who established and maintained a self-contained domestic establishment at a remote work location will not qualify for the remote work location exclusion (see 13 above). However,

such an employee will qualify for the full northern residents deductions provided the remote work location is located in a prescribed zone and the other requirements in subsection 110.7(1) are met.

(c) An employee who does not qualify for the remote work location exclusion and who did not maintain a self-contained domestic establishment in a prescribed zone will qualify for a portion of the northern residents deductions if the remote work location is located in a prescribed zone and the other requirements in subsection 110.7(1) are met.

If you have any comments regarding the matters discussed in this bulletin, please send them to:

Director, Business and Publications Division Income Tax Rulings and Interpretations Directorate Policy and Legislation Branch Revenue Canada 25 Nicholas St. Ottawa ON K1A 0L8

Appendix I

Overview Of The Requirements Under Subsection 6(6) to Exclude Board, Lodging and Transportation Benefits or Allowances from Income

For the special work site or remote work location exclusion to apply to board and lodging benefits or allowances, all of the applicable requirements below must be met.

Employment duties were of a temporary nature.

Special Work Site Exclusion

Yes - see \P s 4 to 6

Remote Work Location Exclusion

Not applicable

Employee maintained at another location a self-contained domestic establishment (SCDE) as a principal place of residence.

Special Work Site Exclusion

Yes - see ¶s 4, 7 to 9

Remote Work Location Exclusion

Not applicable

Employee was required by employment duties to be away for at least 36 hours.

Special Work Site Exclusion

Yes (away from the employee's principal place of residence or to be at the special work site) - see $\P\ 4$

Remote Work Location Exclusion

Yes (to be at the remote work location) - see \P 12

Any allowance provided must not be in excess of a reasonable amount.

Special Work Site Exclusion

Yes - see \P 4

Remote Work Location Exclusion

Yes – see ¶ 12

Work location is remote from any established community.

Special Work Site Exclusion

Not applicable

Remote Work Location Exclusion

Yes - see ¶s 12, 14 to 17

No reasonable expectation of establishing and maintaining a SCDE at the work location.

Special Work Site Exclusion Not applicable

Remote Work Location Exclusion

Yes - see ¶s 12, 13

For the special work site or remote work location exclusion to apply to transportation benefits or allowances, all of the applicable requirements below must be met.

Transportation assistance was for a period during which the employee also received board and lodging benefits or allowances that were excluded from income under paragraph 6(6)(a).

Special Work Site Exclusion

Yes - see ¶ 10

Remote Work Location Exclusion

Yes - see ¶ 18

Any allowance provided must not be in excess of a reasonable amount.

Special Work Site Exclusion

Yes - see ¶ 10

Remote Work Location Exclusion

Yes – see ¶ 18

Transportation assistance must relate to travel between the work location and the employee's principal place of residence.

Special Work Site Exclusion

Yes - see ¶ 10

Remote Work Location Exclusion

Not applicable

Transportation assistance must relate to travel between the work location and a location in Canada or in the country in which the employee is working.

Special Work Site Exclusion

Not applicable

Remote Work Location Exclusion

Yes - ¶ 18

Appendix II

Interaction Between the Rules for Special Work Sites, Remote Work Locations, and the Northern Residents Deductions

Special Work Sites

The special work site exclusion applies and the employee maintained a self-contained domestic establishment (SCDE) as a principal place of residence outside a prescribed northern or intermediate zone (prescribed zone).

Effect on the Northern Residents Deductions Under Subsection 110.7(1)

In calculating the employee's residency deduction, the amount otherwise determined under subparagraph 110.7(1)(b)(ii) is reduced by the amount of board and lodging benefits or allowances excluded from income under subsection 6(6).

Reference in the Bulletin

¶ 20

The special work site exclusion applies and the employee maintained a SCDE as a principal place of residence in an area which is a prescribed zone.

Effect on the Northern Residents Deductions Under Subsection 110.7(1)

The employee qualifies for the full northern residents deductions if the requirements set out in subsection 110.7(1) are otherwise met.

Reference in the Bulletin

¶ 20

Remote Work Locations

The remote work location exclusion applies and the employee maintained a SCDE in another area which is a prescribed zone.

Effect on the Northern Residents Deductions Under Subsection 110.7(1)

The employee qualifies for the full northern residents deductions if the requirements set out in subsection 110.7(1) are otherwise met.

Reference in the Bulletin

¶ 21(a)

The remote work location exclusion applies and the employee did not maintain a SCDE in a prescribed zone or the employee maintained a SCDE outside a prescribed zone.

Effect on the Northern Residents Deductions Under Subsection 110.7(1)

The employee qualifies for a portion of the northern residents deductions if the requirements set out in subsection 110.7(1) are otherwise met.

Reference in the Bulletin

¶ 21(a)

The remote work location exclusion does not apply and the employee maintained a SCDE at the remote work location which is located in a prescribed zone.

Effect on the Northern Residents Deductions Under Subsection 110.7(1)

The employee qualifies for the full northern residents deductions if the requirements set out in subsection 110.7(1) are otherwise met.

Reference in the Bulletin

¶ 21(b)

The remote work location exclusion does not apply and the employee did not maintain a SCDE in an area which is a prescribed zone.

Effect on the Northern Residents Deductions Under Subsection 110.7(1)

The employee may qualify for a portion of the northern residents deductions if the remote work location is located in a prescribed zone.

Reference in the Bulletin

¶ 21(c)

Explanation of Changes for Interpretation Bulletin IT-91R4 Employment at Special Work Sites or Remote Work Locations

Introduction

The purpose of the EXPLANATION OF CHANGES is to give the reasons for the revisions to an interpretation bulletin. It outlines revisions that we have made as a result of changes to the law, as well as changes reflecting new or revised departmental interpretations.

Overview

This bulletin discusses the requirements in subsection 6(6) that must be met in order for board and lodging benefits or allowances and certain transportation assistance received by an employee working at a special work site or a remote work location to be excluded from the employee's income. The bulletin also explains in general the interaction between the rules for special work sites, remote work locations and the northern residents deductions.

The bulletin reflects amendments to section 110.7 enacted by S.C. 1994, c. 7, Sch. II (1991, c. 49 – formerly Bill C-18).

The comments in the bulletin are not affected by any draft legislation released before March 8, 1996.

Legislative and Other Changes

 \P 1 has been expanded to describe the types of benefits or allowances that are excluded from income under subsection 6(6).

New ¶ 4 (former ¶s 2 and 3) has been revised to deal only with the rules relating to special work sites. The comments dealing with the rules relating to remote work locations have been moved to new ¶ 12.

New ¶s 7 and 8 (former ¶ 6) discuss the meaning of "principal place of residence" and "self-contained domestic establishment." New ¶ 7 clarifies that the special work site exclusion under subsection 6(6) is not denied to an employee who maintains a temporary place of residence while having a principal place of residence elsewhere.

New ¶ 10 (former ¶ 4) has been revised to comment only on transportation benefits or allowances relating to special work sites. The comments dealing with transportation benefits or allowances relating to remote work locations have been moved to new ¶ 18. New ¶ 11, which deals with Form TD4, DECLARATION OF EXEMPTION – EMPLOYMENT AT SPECIAL WORK SITE, replaces part of former ¶ 14 and all of former ¶ 15. The other part of former ¶ 14 as well as former ¶s 16 and 17 have been deleted since the information provided in those paragraphs can be found in the current version of the EMPLOYERS' GUIDE TO PAYROLL DEDUCTIONS – BASIC INFORMATION.

New ¶ 12 includes those comments in former ¶s 2 and 3 dealing with the remote work location exclusion. Specifically, new ¶ 12 sets out the requirements that must be met in order for the exclusion to apply.

New ¶ 13 deals with a requirement in subparagraph 6(6)(a)(ii) relating to the remote work location exclusion. An employee will qualify for the exclusion only if it is not reasonable to expect the employee to establish and maintain a self-contained domestic establishment at the work location. New ¶ 13 provides examples of when a reasonable expectation is considered to exist.

New ¶s 14 to 16 (former ¶ 12) discuss the meaning of "remoteness from an established community" for the purposes of the remote work location exclusion. New ¶ 14 clarifies that if the work location itself qualifies as an established community, the exclusion may not apply.

New \P 15 elaborates on the factors to be considered in determining whether a location is an established community.

New ¶ 18 includes those comments in former ¶ 4 dealing with employer-provided transportation or allowances received by an employee working at a remote work location.

New ¶ 19 has been added to provide a brief overview of the northern residents deductions provided by subsection 110.7(1).

New ¶s 20 and 21 explain in general the interaction between the rules for special work sites, remote work locations and the northern residents deductions.

We have added two appendices. Appendix I provides an overview of the requirements under subsection 6(6) and Appendix II shows the interaction between subsections 6(6) and 110.7(1) and (4).

Throughout the bulletin, we have changed some of the wording and the order of some paragraphs to improve readability.