



Canada Revenue
Agency

Agence du revenu
du Canada

Electing Under Section 217 of the *Income Tax Act*

2008

Is this pamphlet for you?

This pamphlet applies to you if:

- you were a non-resident of Canada for all of 2008; and
- you received any of the types of Canadian-source income listed on pages 4 and 5.

This pamphlet explains what a section 217 election is and how to determine whether it benefits you. It also explains how to complete a 2008 section 217 return.

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La version française de cette brochure est intitulée *Choix prévu à l'article 217 de la Loi de l'impôt sur le revenu*.

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Before you start

What is a section 217 election?

Canadian payers have to withhold non-resident tax on certain types of income they paid or credited to you as a non-resident of Canada. The tax withheld is usually your final tax obligation to Canada on this income.

However, you can choose to file a Canadian return and report the types of Canadian-source income listed in the next section. You are then “electing under section 217 of the *Income Tax Act*.” By doing this, you may pay tax on this income using an alternative taxing method and may receive a refund of some or all of the non-resident tax withheld.

If you emigrated from Canada in 2008, see Guide T4056, *Emigrants and Income Tax*, for the special section 217 rules that apply to you. If you immigrated to Canada in 2008, contact the International Tax Services Office for the special section 217 rules that apply to you. You will find the address and telephone numbers on the back cover of this pamphlet.

What types of income are eligible for a section 217 election?

The section 217 election applies to the following types of Canadian-source income:

- Old Age Security pension (read note below);
- Canada Pension Plan and Quebec Pension Plan benefits;
- most superannuation and pension benefits;
- most registered retirement savings plan payments;
- most registered retirement income fund payments;
- death benefits;
- Employment Insurance benefits;
- certain retiring allowances;

- registered supplementary unemployment benefit plan payments;
- most deferred profit-sharing plan payments;
- amounts received from a retirement compensation arrangement, or the purchase price of an interest in a retirement compensation arrangement;
- prescribed benefits under a government assistance program; and
- Auto Pact benefits.

Note

Whether or not you choose to elect under section 217, if you received Old Age Security benefits, you may have to file Form T1136, *Old Age Security Return of Income*. For more information, see Guide T4155, *Old Age Security Return of Income Guide for Non-Residents*.

Is a section 217 election beneficial?

You will benefit from filing a return under section 217 of the *Income Tax Act* if the tax you have to pay on your 2008 tax return by making this election is **less** than the tax you would otherwise pay if you did not make this election.

To determine the **tax you would otherwise pay**, add the following amounts:

- the non-resident tax required to be withheld on all eligible section 217 income that was paid or credited to you in 2008 (you can use Schedule C, *Electing Under Section 217 of the Income Tax Act* in the *General Income Tax and Benefit Guide for Non-residents of Canada* to calculate this amount); and
- the tax payable, if applicable, on Canadian-source employment and business income, net Canadian partnership income if you are a limited or non-active partner, and on taxable capital gains from disposing of taxable Canadian property that you have to include on your 2008 return.

To determine the **tax you have to pay** on your section 217 return, see the section called “Completing your section 217 return” on page 7.

Form NR5 – Reducing tax withheld

If you intend to make a section 217 election on eligible income that you have not yet received, you can apply to reduce the non-resident tax that the payer would otherwise have to withhold.

You can do this by sending us, for approval, a completed Form NR5, *Application by a Non-Resident of Canada for a Reduction in the Amount of Non-Resident Tax Required to be Withheld*.

We will use the information you give on the application to determine if the election will benefit you. If we process your application and find that the election is beneficial for you, we will authorize your Canadian payer(s) to reduce the amount of non-resident tax withheld from your benefits. You have to apply for this reduction each year.

Note

If you submit Form NR5 for 2010, you should send it on or before October 1, 2009, or before the first payment is to be paid. If we approve it, you must file a section 217 return for 2010.

Do you have to file a section 217 income tax return?

You **must** file a section 217 return for 2008 if you filed Form NR5, *Application by a Non-Resident of Canada for a Reduction in the Amount of Non-Resident Tax Required to be Withheld*, for 2008 and we approved it.

However, even if you did not submit Form NR5, you can choose to file a section 217 return to apply for a refund of some or all of the non-resident tax withheld on the types of income listed on pages 4 and 5, if it is beneficial for you.

Which tax guide should you use?

Use the *General Income Tax and Benefit Guide for Non-Residents and Deemed Residents of Canada*. This guide contains the return, schedules, and the information you need to complete your section 217 income tax return.

When is your section 217 return due?

Your 2008 section 217 return has to be filed on or before **June 30, 2009**.

However, if you have a balance owing for 2008, you have to pay it by **April 30, 2009**, to avoid interest charges.

If you send us your return late, your section 217 election will be invalid. If the required amount of non-resident tax was withheld on your eligible 217 income, we consider that to be the final tax liability. If the required amount was not withheld, we will send you a non-resident tax assessment.

Note

The due date for filing your return may be different if you also report on the return other types of Canadian-source income, such as employment or business income, net Canadian partnership income if you are a limited or non-active partner, or taxable capital gains from disposing of taxable Canadian property. For the exceptions, see the section called “What date is your return for 2008 due?” in the *General Income Tax and Benefit Guide for Non-Residents and Deemed Residents of Canada*.

Completing your section 217 return

You will find the information you need to complete your 2008 section 217 return in the *General Income Tax and Benefit Guide for Non-Residents and Deemed Residents of Canada*. You may also find the following information helpful.

Identification

Write “section 217” at the top of page 1 of your return.

Complete the Identification area by following the instructions in the guide.

Income

On your return, include the following income:

- all eligible section 217 income (see the list on pages 4 and 5) that was paid or credited to you in 2008; and
- your 2008 Canadian-source employment and business income, net Canadian partnership income if you are a limited or non-active partner, and taxable capital gains from disposing of taxable Canadian property, if applicable.

Schedule C – *Electing Under Section 217 of the Income tax Act*

Use this schedule if you were a non-resident of Canada for the entire year and you are electing under section 217.

Schedule C is divided into three parts which help calculate:

- your section 217 eligible income after adjustments;
- the amount of non-resident tax required to be withheld on your eligible section 217 income; and
- the section 217 tax adjustment.

Indicate in Part 1 of Schedule C, your eligible section 217 income.

Complete Part 2 of Schedule C to calculate the amount of non-resident tax required to be withheld on your eligible section 217 income. The amount you calculate may be different from the non-resident tax withheld on this income. This would be the case if the payer did not withhold the required amount of tax, or if we approved a reduction in the amount of tax to be withheld as a result of the Form NR5 you submitted for 2008.

Deductions

You can claim only those deductions that apply to you as a non-resident electing under section 217. See the guide for the list of available deductions.

Calculating federal tax

To calculate the federal tax on your section 217 return, special rules apply. Before you can calculate your federal tax on Schedule 1, *Federal Tax*, you **must** complete Schedule A, *Statement of World Income*.

Schedule A – *Statement of World Income*

Schedule A is used to report your world income. World income is income from all sources, both inside and outside Canada.

Your income from Canadian sources is the total of your net income (line 236 from your section 217 return), plus other types of Canadian-source income that are not included on this return (such as dividends, interest, rental income, or worker's compensation benefits).

Income from foreign sources (when we mention foreign source in this pamphlet we are referring to sources outside Canada) includes income from employment, self-employment, pension, investment, rental, capital gains, and any other foreign-source income. Your foreign-source income is reported on your Schedule A and may also be used on Schedule 1. See the following section called "Schedule 1 – *Federal Tax*."

Note

World income is used to determine the allowable amount of federal non-refundable tax credits on Schedule B (see page 11) and the section 217 tax adjustment (see page 13).

Example 1

Jeff Adams is a resident of the United States. In 2008, his world income is made up of the following:

- \$18,000 from a pension plan in Canada;
- \$500 in dividends from Canadian stocks; and
- \$500 interest from a savings account in the U.S.

Jeff elects to file a return under section 217 to have his pension income taxed at a lower rate. On the return, he reports the \$18,000 pension he received (eligible income for section 217). Since Jeff has no deductions, his taxable income on line 260 of his return is \$18,000.

He does not report any bank interest or dividends on the return. The U.S. interest is not subject to tax in Canada but is reported on line 8 of Schedule A. The dividends from Canada are subject to non-resident withholding tax, which is his final Canadian tax liability on that income but it is reported on line 2 of Schedule A.

When Jeff completes Schedule A, his net world income reported on line 16 would be \$19,000.

Schedule 1 – *Federal Tax*

To calculate your tax payable, which includes the surtax for non-residents and deemed residents of Canada, you need to complete Schedule 1, *Federal Tax*.

Make sure to enter on line 30 of Schedule 1 whichever is **greater**:

- the taxable income reported on line 260 of your return; **or**
- your net world income after adjustments from line 16 of Schedule A.

If you use line 16 of Schedule A (net world income after adjustments) to determine your federal tax, you need to calculate the section 217 tax adjustment on line 445 of Schedule 1. For more details, see “Section 217 tax adjustment” on page 13.

Note

If you are also reporting Canadian-source employment or business income on the return, you have to pay tax on that income to the province or territory where you earned it. If this is your situation, complete Form T2203, *Provincial and Territorial Taxes for 2008 – Multiple Jurisdictions*, to calculate your tax payable.

Federal non-refundable tax credits

These credits reduce the amount of your federal tax.

You can claim all of the federal non-refundable tax credits that apply to you (on Schedule 1). However, under section 217 of the *Income Tax Act*, the amount of the credits you can use to reduce your tax may be limited.

Once you have completed the front side of Schedule 1, complete Schedule B to calculate the allowable amount of federal non-refundable tax credits.

Schedule B – Allowable Amount of Non-Refundable Tax Credits

The allowable amount of federal non-refundable tax credits depends on the portion of net world income (line 14 of Schedule A) that is included in net income (line 236) on your section 217 return.

If you have included in your net income at least 90% of your 2008 net world income, the allowable amount of federal non-refundable tax credits is the total from line 350 of your Schedule 1.

If you do not meet this 90% rule for 2008, the allowable amount of federal non-refundable tax credits is the **lesser** of a) or b) below:

- a) 15% of the eligible section 217 income (see pages 4 and 5, or line 14 of your Schedule C) that was paid or credited to you in 2008; **or**
- b) the total federal non-refundable tax credits you would be eligible for if you were resident of Canada for the full year from line 350 of your Schedule 1 minus 15% of the total of the following amounts, if any:

- public transit amount (line 364);
- children’s fitness amount (line 365);
- adoption expenses (line 313); and
- interest paid on student loans (line 319).

Example 2

In example 1, Jeff determined his net world income was \$19,000. To calculate his taxes payable, Jeff will enter on line 30 of his Schedule 1 whichever is **greater**:

- the taxable income he reported on line 260 of his return; \$18,000 **or**
- his net world income after adjustments from line 16 of Schedule A. \$19,000

Jeff has included on his return at least 90% of his net world income. He calculated this percentage on Schedule B as follows:

$$\frac{\$18,000 \text{ (the net income on his return)}}{\$19,000 \text{ (his net world income on Schedule A)}} = 95\%$$

As a result, Jeff can claim all of the federal non-refundable tax credits (from line 350 of Schedule 1) that would have applied to him if he had been resident in Canada throughout 2008.

Example 3

If Jeff also earned \$12,000 interest on U.S. treasury bonds, he would not meet the 90% rule, calculated as follows:

$$\frac{\$18,000 \text{ (the net income on his return)}}{\$31,000 \text{ (his net world income on Schedule A)}} = 58\%$$

In this example, since Jeff has not included at least 90% of his 2008 net world income on his section 217 return, his allowable federal non-refundable tax credits are limited to whichever is **lesser** a) or b) below:

- a) \$2,700 (15% of his \$18,000 pension income); **or**
 - b) the total federal non-refundable tax credits entered on line 350 of his Schedule 1 minus 15% of the total of the following amounts, if any:
 - public transit amount (line 364);
 - children's fitness amount (line 365);
 - adoption expenses (line 313); and
 - interest paid on student loans (line 319).
-

Section 217 tax adjustment

If the amount you enter on line 30 of Schedule 1 is your net world income after adjustments (line 16 of Schedule A), you need to calculate the section 217 tax adjustment.

Your net world income after adjustments may include foreign-source income, which is not taxable in Canada, and Canadian-source income, such as interest, dividends, or rental income, which is not included on this return. The adjustment reduces your federal tax by the portion of taxes applicable to this income.

Note

You will find the calculation for the section 217 tax adjustment on the back of Schedule C.

Tax payable

The amount indicated on line 435 of your return represents your tax payable if you make the election under section 217.

What if the election is beneficial?

It is beneficial for you to file a section 217 return if the amount on line 435 of your return is **less than** the tax you would otherwise pay (see “Is a section 217 election beneficial?” on page 5 to determine the tax you would otherwise pay).

If this is the case and you file your section 217 return on time, we will refund any taxes withheld that are more than the amount you owe. Make sure you enter on line 437 of your return the non-resident taxes withheld on your eligible section 217 income from your information slips.

Note

Attach a completed Schedule 1, Schedule A, and Schedule C to your return. If you do not attach these schedules, the processing of your return, and any refund to which you may be entitled, may be delayed. Also attach a copy of your information slips.

What if the election is not beneficial?

It is not beneficial for you to file a section 217 return if the amount of the tax on line 435 of your return is **equal to or greater than** the tax you would otherwise pay (see “Is a section 217 election beneficial?” on page 5 to determine the tax you would otherwise pay).

If it is not beneficial to file a section 217 return and the payer withheld non-resident tax on your eligible section 217 income **in excess** of the required amount, you can ask for a refund of the excess. To do so, use Form NR7-R, *Application for Refund of Part XIII Tax Withheld*.

If the payer withheld **less** than the required amount of non-resident tax, you might have a balance owing, even if the section 217 election is beneficial. For more information, contact the International Tax Services Office.

For more information

If, after reading this pamphlet you need more information, you can visit our Web site at www.cra.gc.ca or contact the International Tax Services Office. The address and telephone numbers for this office are on the back cover of this pamphlet.

Also, throughout this pamphlet, we mention forms and guides that give more details on specific tax topics. You can get these and most other forms you may need on our Web site at www.cra.gc.ca/forms or by calling **1-800-959-2221** (calls from Canada and the United States). If you are outside Canada and the United States, contact the International Tax Services Office. You can also get the *General Income Tax and Benefit Guide for Non-Residents and Deemed Residents of Canada* from any Canadian embassy, high commission, or consulate.

For personal and general tax information, use our automated Tax Information Phone Service (T.I.P.S.) at **1-800-267-6999** (calls from Canada and the United States).

International Tax Services Office

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Your opinion counts!

We review this pamphlet each year. If you have any comments or suggestions that would help us improve it, we would like to hear from you. Please send your comments on this pamphlet to:



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