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Tax Alert – Canada

CRA extends administrative relief relating to Regulation 105 withholding tax on subcontractor fees

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On 13 August 2025, the Canada Revenue Agency (CRA) announced that it is extending the administrative relief from withholding tax, interest and penalties it previously announced with respect to Regulation 105 withholding tax on subcontractor fees reimbursed to nonresidents from 30 September 2024 to 30 June 2026, where certain conditions are met.

More specifically, in June 2024, the CRA announced its new position requiring Canadian resident corporations to withhold tax on subcontractor fees reimbursed to nonresident corporations for services performed in Canada. The CRA stated that this new position applied in respect of subcontractor fees reimbursed after 30 September 2024. Administrative relief from withholding tax, interest and penalties was available for payments made to nonresidents on or before 30 September 2024, for taxpayers who relied on the CRA's previous position.

As a result of the CRA's latest announcement, affected businesses that require additional time to implement the change in position may continue to qualify for relief from withholding tax, interest and penalties for relevant payments made to nonresidents until 30 June 2026.

In this Tax Alert, we provide a brief overview of the CRA's new position on subcontractor fees reimbursed to nonresidents for services performed in Canada. For more information on the evolution of the CRA's position and an overview of what taxpayers should consider to comply with the CRA's new position, see [EY Tax Alert 2024 Issue No. 38, CRA announces a change in position with respect to Regulation 105 withholding tax on subcontractor fees](#).



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Background

Under paragraph 153(1)(g) of the *Income Tax Act* (the Act) and section 105 of the Income Tax Regulations (Regulation 105), fees, commissions or other amounts paid to a nonresident person in respect of services rendered in Canada are subject to a 15% withholding tax.

In a 2008 CRA document,¹ the CRA took the position that Regulation 105 withholding tax would generally not apply to a reimbursement of a nonresident's expenses, including subcontractor fees and travel costs, for services rendered in Canada, provided information regarding the reimbursement was available and documented at the time the payment was made to the nonresident.

However, in a 2019 CRA document,² the CRA concluded that advance payments made by a Canadian resident corporation to a nonresident corporation for services performed in Canada by a subcontractor would be subject to Regulation 105 withholding tax. In the same document, the CRA confirmed that Regulation 105 withholding tax would not apply to amounts paid to a nonresident for the reimbursement of travel costs paid by the nonresident to a subcontractor in respect of services performed in Canada.

CRA's new position – 2024 announcement

In a CRA document released on 5 June 2024 (the 2024 CRA document),³ the CRA stated that, in the scenario provided, the reimbursement of travel and meal costs by a Canadian resident corporation to a nonresident corporation in respect of services performed in Canada would not be subject to Regulation 105 withholding tax, regardless of whether those amounts were paid by the nonresident or a subcontractor, and provided that the Canadian resident corporation agreed to reimburse the costs. However, the fees paid by a Canadian resident corporation to a nonresident corporation for services performed in Canada (i.e., by a subcontractor) would be subject to Regulation 105 withholding tax.⁴

The CRA acknowledged that its views in the 2024 CRA document represented a change in position from the 2008 CRA document and stated that this change in position applies to reimbursements of subcontractor fees made after 30 September 2024.⁵

¹ CRA document 2008-0297161E5, dated 16 September 2009.

² CRA document 2019-0823641I7, dated 16 October 2020.

³ CRA document 2022-0943241E5. In the example discussed in the 2024 CRA document, the Canadian resident corporation deals at arm's length with the nonresident corporation and the subcontractor.

⁴ The CRA also noted that if the subcontractor were a nonresident, payments from the nonresident corporation to the subcontractor may also be subject to Regulation 105 withholding tax.

⁵ The CRA clarified the effective date of the change in position in CRA document 2022-0943242E5, extending the effective date from after 30 June 2024, as initially set out in the 2024 CRA document.

Further, the CRA indicated that for taxpayers who made payments potentially subject to Regulation 105 withholding tax after 16 September 2009, and on or before 30 September 2024, and who relied on the views expressed in the 2008 CRA document, no assessment would be made for additional Regulation 105 withholding tax, interest or penalties, provided the conditions set out in the 2008 CRA document were otherwise met. For an overview of those conditions, see [EY Tax Alert 2024 Issue No. 38, CRA announces a change in position with respect to Regulation 105 withholding tax on subcontractor fees](#).

Reinstatement of temporary administrative relief

Where the conditions set out in the 2008 CRA document are met, affected businesses that need more time to implement the CRA's new position may qualify for relief from additional Regulation 105 withholding tax, interest and penalties for subcontractor fees reimbursed to nonresidents until 30 June 2026.

The CRA extended the administrative relief period to 30 June 2026 based on feedback from external parties. This extension will provide the CRA with more time to conclude public consultations on Regulation 105 withholding tax and clarify its interaction with proposed subsection 153(8) of the Act.

Regulation 105 waiver

Currently, if a nonresident can demonstrate that the normally required withholding tax on a payment exceeds the nonresident's ultimate tax liability, based on treaty protection or the nonresident's estimated income and expenses, the CRA may waive or reduce the withholding tax accordingly on application by the nonresident.⁶ However, the application process is complex and often time consuming.

To improve efficiency, proposed subsection 153(8) of the Act will allow the CRA to waive, over a specified period, the requirement to withhold tax on payments to a nonresident for services provided in Canada if the nonresident would not be subject to Canadian income tax in respect of the payments because of a tax treaty between their country of residence and Canada.⁷ Once this amendment is passed into law, taxpayers will likely need guidance from the CRA on how to apply for this relief.

The CRA's public [consultation](#) on the current Regulation 105 waiver process is open until 29 August 2025.

⁶ Under subsection 153(1.1) of the Act. The CRA noted that this relief may be available in the 2024 CRA document.

⁷ The proposed amendment was included in the draft legislative proposals released on 12 August 2024. The amendment will also allow the CRA to waive the withholding requirement if the income is exempt income from international shipping or from operating an aircraft in international traffic.

We will continue to monitor for further developments with respect to Regulation 105 withholding tax, including the release of any additional guidance by the CRA.

Learn more

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