

## Individual Residency Requirements and Supporting Documentation

On the production company's tax credit filing, Canada Revenue Agency (CRA) and the provincial tax authorities require that each employee and individual be categorized as either:

1. a resident of the province of production, therefore qualifying for both federal and provincial tax credits; or
2. a Canadian resident who is a resident of a different province, therefore qualifying for only the federal tax credit.

## Required Supporting Documentation and Forms (UPDATED AUGUST 2, 2018)

### I. Payroll

#### For Employees and Independent Contractors (including Background Performers/Extras):

We ask that you obtain documentation from each employee and individual so that the above-noted determination can be made.

1. The first item is the '**Individual Declaration of Residency**' form, in which the individual declares if he or she is a resident of the province. You will find that form with the guidelines provided to you by Entertainment Partners.
2. The other documentation will be the support documents, which have been identified by CRA as providing the evidence required to determine resident status.
  - a) CRA has broken down the types of support documents into two categories:
    1. 'green' documents are those that provide stronger and more persuasive evidence of residency,
    2. 'yellow' documents are not as strong but if three are collected, they together form sufficient evidence of residency.

Please note: the full CRA document entitled '**Film and Media Tax Credits - Residency determination for tax purposes**' is attached as Appendix A with the relevant sections listed below.

## **GREEN DOCUMENTS**

The CRA requires a copy of any 1 of the following ‘green’ documents to support resident status:

1. **Notice of Assessment (T1-Personal Tax Return) indicating the individual is a Resident of Canada/province for the relevant tax year; OR**
  - a. **EP Canada’s Note:**
    - i. For a Notice of Assessment (‘NOA’) to qualify as the sole required ‘green’ support document, it must be for the relevant tax year. The relevant tax year is:
      1. in BC, the calendar year prior to the ProdCo’s fiscal year-end in which the tax credit is being claimed, or
      2. in Ontario and most other provinces, the calendar year prior to the year in which principal photography begins.
    - ii. In many cases, due to the timing of production and the timing of hiring, it will not be possible to collect an NOA for the relevant tax year because it will not yet have been issued by CRA. The NOA for any calendar year will typically be issued within 3 months after the individual has filed his or her return, which is due on April 30.
    - iii. For the part of the year where the relevant NOA isn’t yet available, Production could elect to collect a copy of the individual’s:
      1. NOA for the calendar year immediately prior to the relevant tax year, and
      2. utility/cell phone bill which includes December 31<sup>st</sup> of the relevant tax year.
2. **Letter from the CRA giving an opinion of the individual’s resident status in Canada for the relevant year(s) after completing the Determination of Residency Status form (NR74); OR**
3. **Long-term (one year or more) lease or purchase of a Canadian dwelling with utility and/or cell phone bills showing the individual is living at that Canadian address.**
  - a. **EP Canada’s Note:**
    - i. The utility and/or cell phone bill provided should include December 31st of the relevant tax year.

## **YELLOW DOCUMENTS:**

If no ‘green’ documents are available, the CRA requires a copy of any 3 of the following ‘yellow’ documents to support resident status:

1. **Copy of the last tax return filed in the country of origin and/or any document filed to the foreign tax authority in which the individual has declared that they are no longer a resident;**

2. Short-term (less than a year) lease agreement or letter from a landlord supporting a rental agreement;
3. Provincial health card and/or services card for the individual, their spouse and/or dependent;
  - a. EP Canada's Note: in Ontario, the *Personal Health Information Protection Act* prohibits asking for a copy of an employee's Ontario Health Card, so Productions are advised not to ask for this.
4. Driver's license or vehicle registration from the relevant province (a provincial services card that includes a driver's license will count as two documents)
  - a. EP Canada's Note:
    - i. in BC, there are three types of BC Services Card:
      - a. 'BC Driver's License and Services Card' combines the BC driver's licence and the ID for BC's Medical Services Plan into one card. This will count as 2 'yellow' documents.
      - b. 'Photo BC Services Card' is used as ID for BC's Medical Services Plan and will count as 1 'yellow' document.
      - c. 'Non-Photo BC Services Card' is available to certain BC residents and is used as ID for BC's Medical Services Plan and will count as 1 'yellow' document.
    - ii. in Ontario, an Ontario Photo Card provides government-issued identification only to those Ontarians who do not have a driver's licence. It will be considered the equivalent of an Ontario driver's license and will count as 1 'yellow' document.
5. Proof of professional association or union membership in Canada;
  - a. EP Canada's Note: for union hires, this item will be satisfied through the union membership list which EP will request from each union and guild. The union membership list, on which the individual's name appears, will count as 1 'yellow' document. This will relieve Production of collecting copies of union membership cards.
6. Statements of accounts (for example: bank accounts, retirement savings plan, credit cards, securities accounts) from a Canadian branch of a financial institution.
  - a. EP Canada's Note:
    - i. Account statements provided should include December 31st of the relevant tax year.

In cases where ‘green’ documents are not available, and Production is collecting ‘yellow’ documents, please note the following:

- For union hires in good standing:
  - the membership list from each union will represent 1 of the 3 ‘yellow’ documents (as noted above)
  - Production will only need to collect 2 more ‘yellow’ documents.
- For non-union hires:
  - Production will need to collect 3 ‘yellow’ documents, since a union membership list won’t apply.

#### For Loan-Out Corporations:

We ask that you obtain the following documents from each corporation.

1. The first item is the **Corporate Loan-out Declaration** form. You will find that form with the guidelines provided to you by Entertainment Partners.
2. The other items are the required support documents:
  - Notice of Assessment (most recent available), and
  - Schedule 50 from the loan-out’s most recent tax return

#### CRA Audit

During the audit, CRA will use its own information systems to test the residency of its sample of individuals. If CRA is unable to confirm residency through its own procedures, they will inform EP and we will then provide CRA with all evidence collected to support residency and the tax credit claim. If there are any employees/individuals who did not supply the support during production, and at the time of the audit we are still unable to provide residency support to CRA, it is likely that CRA will propose an adjustment which would reduce the production’s tax credit claim.

We appreciate Production’s diligence in ensuring all employees and individuals provide residency documentation as evidence for the tax credit filing.

# FILM AND MEDIA TAX CREDITS

Residency determination for tax purposes

## ABOUT FILM AND MEDIA TAX CREDITS

The Canada Revenue Agency (CRA) administers [film and media tax credits](#) on behalf of the federal government and the provinces of British Columbia, Ontario and Manitoba. These tax credits are based upon qualifying labour expenditures paid by corporations to their employees and other qualifying individuals who are [residents of Canada](#).

In Canada, income tax obligations are based on resident status, not on citizenship or immigration status.

Residents of Canada for the purposes of film and media tax credits include “factual residents” and “deemed residents”. Non-residents and individuals who are considered residents of another country under the terms of a tax treaty between Canada and that country do not qualify.

### WHAT ARE FACTUAL RESIDENTS?

Individuals who have established significant residential, economic and social ties to Canada. They are subject to Canadian and provincial or territorial income tax on worldwide income during the part of the year that they were a factual resident.

Salaries or remuneration paid to factual residents may qualify for the federal and provincial film and media tax credits.

### WHAT ARE DEEMED RESIDENTS?

Individuals who have not established significant ties to Canada but were in Canada for 183 days or more in a calendar year. They are subject to Canadian income tax on worldwide income throughout the year and are subject to a federal surtax instead of provincial tax.

Salaries or remuneration paid to deemed residents of Canada may qualify for the federal film tax credits only. They do not qualify for the provincial film and media tax credits.

## DUAL RESIDENTS AND TEMPORARY FOREIGN WORKERS

It is possible to be a resident for tax purposes in more than one country at the same time. In such cases, and where a tax treaty exists between Canada and the other country, individuals will be considered residents where they have the strongest residential, social and economic ties. For example, as Canada has a tax treaty with the United States (US), US citizens will be considered residents in the country in which they have established the strongest ties. If they have stronger ties in the US, they will be deemed non-residents in Canada for tax purposes and will not qualify for federal and provincial film and media tax credits.

A work permit is one indicator of temporary stay in Canada, but is not conclusive for determining residency for tax purposes. The resident status of each individual is reviewed independently, on an annual basis, and is based on the facts and information made available to the CRA at the time of an audit.

# FILM AND MEDIA TAX CREDITS

## Residency determination for tax purposes

### LIST OF DOCUMENTS - EVIDENCE OF STRONG TIES TO CANADA

The CRA considers the documents listed below to be evidence of strong ties to Canada but may request additional information as outlined in the CRA's [Determining an Individual's Residence Status](#) bulletin. All documents submitted to the CRA are subject to further verification, especially in situations of dual residency where an income tax treaty exists.

#### GREEN DOCUMENTS

The CRA requires a copy of any one of the green documents to support resident status.

- Notice of Assessment (T1) indicating the individual is a Resident of Canada/province for the relevant tax year
- Letter from the CRA giving an opinion of the individual's resident status in Canada for the relevant year(s) after completing the [Determination of Residency Status form \(NR74\)](#)
- Long-term (one year or more) lease or purchase of a Canadian dwelling with utility and/or cell phone bills showing the individual is living at that Canadian address

#### YELLOW DOCUMENTS

If no green documents are available, the CRA requires a copy of **three** yellow documents to support resident status.

- Copy of the last tax return filed in the country of origin and/or any document filed to the foreign tax authority in which the individual has declared that they are no longer a resident
- Short-term (less than a year) lease agreement or letter from a landlord supporting a rental agreement
- Provincial health card and/or services card for the individual, their spouse and/or dependant
- Driver's license or vehicle registration from the relevant province\*
- Professional association or union membership in Canada
- Statements of accounts (for example: bank accounts, retirement savings plan, credit cards, securities accounts) from a Canadian branch of a financial institution

\* A provincial services card that includes a driver's license will count as two yellow documents.

### ROLES AND RESPONSIBILITIES

Individuals are responsible for determining their own residency status and corporations claiming the credit are responsible for keeping supporting documentation on file. Individuals who need assistance determining their resident status for tax purposes may complete [Form NR74, Determination of Resident Status \(Entering Canada\)](#) and send it to their [tax centre](#) to receive an opinion from the CRA about their resident status.

### CRA FILM AND MEDIA SERVICES

The [Film Services Units](#) (FSUs) administer or provide access to all programs dealing with film and media production that are under the responsibility of the CRA and serve as a gateway to other services specific to the film industry, such as [non-resident actors](#) and [behind-the-scenes personnel](#) who provide services in Canada, [customs](#), and the [GST/HST](#).

Click [here](#) to find a FSU near you.