



## CRA Announces Changes For Remote Employees

February 2024 Employer Alert

The CRA has recently made two important changes in regards to remote employees. Firstly, the CRA has issued a new policy regarding remote employees claiming home office expenses and a new T2200 form for employers. This new policy and form apply for the 2023 tax year. Secondly, as of January 1, 2024, the CRA has published a new policy outlining how to determine the correct province of employment for remote employees, further to payroll deductions. Employers with remote staff members should familiarize themselves with these updates, particularly as employees are likely to request the issuance of T2200s.

### **New CRA Policy and New T2200 Form for Home Office Expenses**

After three years of a temporary flat rate method for home office expenses, the CRA has published a new policy and a new T2200 form. This new policy and the new T2200 form apply for the 2023 taxation year.

Under the new policy, employees will only be able to deduct eligible home office expenses if they meet the following four conditions:

1. The employee was required, in writing or verbally, to work remotely from their home;
2. The employee worked more than 50% of the time from home, for at least 4 consecutive weeks;

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3. The expenses the employee incurred were directly related to the employee's work; and
4. The expenses the employee incurred were not reimbursed.

If you have entered into a written or verbal remote work arrangement with any of your employees, you should complete and issue to them a T2200 for the 2023 taxation year. It should be noted that you are only required to estimate the percentage of time the employee worked from home. If there is an issue, the CRA places the burden on the employee to establish that they worked from home for more than 50% of the time, for at least 4 consecutive weeks.

### **New CRA Policy on Determining the Province of Employment**

When an employee is paid, various deductions are made. These deductions, in part, are determined based on the employee's province of employment. The province of employment is determined by considering various facts, including the location of the employer's establishment where the employee reports for work. Over the last few years, we have seen a dramatic increase in the number of remote employees, including those working in a different province than where the employer is located. This has raised questions about which province constitutes the province of employment: Is it the province where the employee's home office is located, or is it the province where the company operates?

Effectively January 1, 2024, the CRA published a **new policy** on how to determine the correct province of employment for payroll deduction purposes in regards to remote employees. Where an employee is working remotely full-time at a location that is not an establishment of the employer (e.g. the employee's home or the client's place of business), then the province of employment will be determined based on whether they are attached to an establishment of the employer. If they are attached to an establishment of the employer, then the location of the attached establishment will determine the province of employment. If they are not attached to an establishment of the employer, then the province of employment will be the province where the employee

works remotely.

What does it mean to be attached to an establishment of the employer? There are various facts that the CRA will consider in determining if there is attachment. For example, the CRA will consider where the employee receive materials/instruction from, where the employee attends meetings (virtually or in person), where the employees is supervised from, etc. If a remote employee is attached to an establishment of the employer, then the location of that establishment will determine the province of employment. For example, a remote employee works from their home in Quebec, but reports to the employer's head office in British Columbia. They receive all materials and instructions from British Columbia. They are supervised by a manager who is in British Columbia. Based on the facts, the determination may be made that the remote employee is attached to the employer's head office in Vancouver. As such, the province of employment for payroll purposes will be British Columbia, rather than Quebec. If the facts indicate that the employee is attached to more than one establishment, then the province of employment will be based on which establishment the employee is more closely attached to.

Given the above, any written remote work agreement with an employee will have a substantial impact on determining the province of employment. For example, if the remote work agreement confirms that the employee is to be supervised by and reports to individuals employed at the head office, then it makes it more likely location of the head office will determine the province of employment. As such, employers should be cognizant of the potential payroll impact when describing the terms of employment in the remote work agreements.

Overall, employers should ensure that they have identified the correct province of employment for each remote employee for payroll purposes. In addition, employers should ensure that any written remote work agreement confirms the correct province of employment.

If you have any questions regarding the potential impact of the

CRA's new policies on the remote work arrangements in your workplace, please contact **our firm**.

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