



Electing Under Section 217 of the *Income Tax Act*

2016



CANADA 150

Is this pamphlet for you?

This pamphlet applies to you if:

- you were a non-resident of Canada for all of 2016; 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 if it is beneficial for you. It also explains how to complete a 2016 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*.

Unless otherwise noted, all legislative references are to the *Income Tax Act* and the *Income Tax Regulations*.

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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 and you do not have to file a Canadian income tax and benefit return to report it.

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 method and may receive a refund of some or all of the non-resident tax withheld.

If you emigrated from Canada in 2016, go to cra.gc.ca/international, and select “Emigrants - Leaving Canada” under “Topics” for the special section 217 rules that apply to you.

If you immigrated to Canada in 2016, contact us for the special section 217 rules that apply to you. You will find our 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 (see the note on the next page);
- Canada Pension Plan and Quebec Pension Plan benefits;
- most superannuation and pension benefits;
- most registered retirement savings plan payments;
- most pooled registered pension 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 elect to file a return 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 electing to file a return under section 217 if the total tax payable on line 435 on your return is **less** than the tax you would otherwise pay if you did not make this election. When processing your return, we will only take your election under section 217 into account if it is beneficial.

To determine the **tax you would otherwise pay** if you did not make a section 217 election, add the following amounts:

- the non-resident tax required to be paid on all eligible section 217 income that was paid or credited to you in 2016 (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 and Deemed 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 2016 return.

To determine the **total tax payable** on your section 217 return, see “Completing your section 217 return” on page 8.

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 for a reduction to the non-resident tax that the payer would otherwise have to withhold.

To do this, complete Form NR5, *Application by a non-resident of Canada for a reduction in the amount of non-resident tax required to be withheld*, and send it to us for approval on or before October 1, or before the first payment is due. If we approve it, you **must** file a section 217 return for each year of the approval period.

Note

If approved, Form NR5 is valid for a period covering five tax years. However, if your situation changes during this period, you may have to file a new Form NR5. For more information, go to cra.gc.ca/international and select “Form NR5 - 5-year Administrative Policy” under “Topics for payers”.

We will use the information you give on Form NR5 to determine if a section 217 election will benefit you. If we 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 for the duration of the approval period.

Do you have to file a section 217 return?

You **must** file a section 217 return for **each** year of the period covered by the approved Form NR5, *Application by a*

non-resident of Canada for a reduction in the amount of non-resident tax required to be withheld.

However, even if you did not send or we did not approve Form NR5 for the year, you may still 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.

Which tax guide should you use?

The *General Income Tax and Benefit Guide for Non-Residents and Deemed Residents of Canada*, contains the return, schedules, and the information needed to complete your section 217 return.

When is your section 217 return due?

Your 2016 section 217 return has to be filed **on or before June 30, 2017**.

However, if you have a balance owing for 2016, you have to pay it **on or before April 30, 2017**, to avoid interest charges.

If you send us your 2016 return after June 30, 2017, according to the *Income Tax Act*, your section 217 election cannot be accepted. If this is your case and the required amount of non-resident tax was withheld on your eligible 217 income, we will consider the amount withheld to be your final tax obligation to Canada on that income. However, if the payer withheld less than the required amount of tax, we will send you an assessment for the difference.

Note

The due date for filing your section 217 return may be different if you also report other types of Canadian-source income on this return, 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 more information, see "What date is your return for 2016 due?" in the *General Income Tax and Benefit Guide for Non-Residents and Deemed Residents of Canada*.

Completing your section 217 return

To complete your 2016 section 217 return, use the information in this section along with the instructions provided in the *General Income Tax and Benefit Guide for Non-Residents and Deemed Residents of Canada*.

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 paid or credited to you in 2016 (Section 217 income is identified on pages 4 and 5. Schedule C, *Electing Under Section 217 of the Income Tax Act*, in the *General Income Tax and Benefit Guide for Non-residents of Canada* also identifies this type of income, and it gives more detail.); and
- your 2016 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

Complete this schedule if you were a non-resident of Canada for the entire year and you are electing to file a return under section 217. Schedule C is divided into two 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.

Report your eligible section 217 income in Part 1 of Schedule C. In this part, also calculate the amount of non-resident tax required to be paid 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.

Deductions

You can claim only the deductions that apply to you as a non-resident electing under section 217. For a list of these deductions, see the *General Income Tax and Benefit Guide for Non-Residents and Deemed Residents of Canada*.

Calculating federal tax

If you file a section 217 return, you **must** complete Schedule A, *Statement of World Income*, before you calculate your tax on Schedule 1, *Federal Tax*.

Schedule A – Statement of World Income

Report your world income on Schedule A. 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 that you would have included on your return if you had been a resident of Canada. Your foreign-source income is reported on your Schedule A and may also be used on Schedule 1. For more information, see "Schedule 1 – Federal Tax" on the next page.

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 is a resident of the United States. In 2016, his world income (in Canadian dollars) 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 United States.

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 United States 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 tax obligation to Canada 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 14 and his net world income after adjustments 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*, included in the *General Income Tax and Benefit Guide for Non-Residents and Deemed Residents of Canada*.

Make sure to enter on line 40 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 the amount from line 16 of Schedule A (net world income after adjustments) to determine your federal tax, you need to calculate the section 217 tax adjustment amount using Part 2 of Schedule C. For more information, 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. To calculate your tax payable in such a situation, complete Form T2203, *Provincial and Territorial Taxes for 2016 – Multiple Jurisdictions*.

Federal non-refundable tax credits

These credits reduce 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 Step 1 of Schedule 1, complete Part B of 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 **90% or more** of your 2016 net world income, the allowable amount of federal non-refundable tax credits is the total from line 350 of your Schedule 1.

However, if you have included in your net income **less than 90%** of your 2016 net world income, the allowable amount of federal non-refundable tax credits is the **lesser** of a) and b) below:

- a) 15% of the eligible section 217 income paid or credited to you in 2016 (Section 217 income is identified on pages 4 and 5.

Schedule C also identifies this type of income, and it gives more detail.); **and**

- 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:
 - volunteer firefighters’ amount (line 362);
 - search and rescue volunteers’ amount (line 395);
 - public transit amount (line 364);
 - children’s arts amount (line 370);
 - home buyers’ amount (line 369);
 - 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 40 of his Schedule 1 whichever is **greater**:

- the net income he reported on line 236 of his return; **or** \$18,000
- his net world income from line 14 of Schedule A. \$19,000

Jeff has included on his return 90% or more of his net world income. He calculated the 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 2016.

Example 3

If Jeff also earned \$12,000 in interest from United States treasury bonds which he does not have to report on his Canadian return, he would no longer be including 90% or more of his net world income on his return:

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

In this example, since Jeff has not included 90% or more of his 2016 net world income on his section 217 return, his allowable federal non-refundable tax credits are limited to whichever is the **lesser** of a) and b) below:

- a) \$2,700 (15% of his income eligible for the section 217 election, which is his pension income of \$18,000); **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:
 - volunteer firefighters' amount (line 362);
 - search and rescue volunteers' amount (line 395);
 - public transit amount (line 364);
 - children's arts amount (line 370);
 - home buyers' amount (line 369);
 - adoption expenses (line 313); and
 - interest paid on student loans (line 319).

Section 217 tax adjustment

If the amount you enter on line 40 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 in the taxable income 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 in Part 2 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.

Refund or balance owing

Lines 458 and 459 – Children's fitness tax credit

If you have included in your net income 90% or more of your 2016 net world income (line 14 of Schedule A), you can claim fees paid in 2016 for the cost of registration or membership for your or your spouse's or common-law partner's child in a prescribed program of physical activity. For more information, see lines 458 and 459 in the *Non-Resident and Deemed Residents Income Tax and Benefit Guide*.

Lines 468 and 469 – Eligible educator school supply tax credit

If you have included in your net income 90% or more of your 2016 net world income (line 14 of Schedule A), and you were an eligible educator, you can claim an amount for eligible supplies you purchased in 2016. For more information, see lines 468 and 469 in the *Non-Resident and Deemed Residents Income Tax and Benefit Guide*.

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. If the payer withheld less than the required amount of non-resident tax on your eligible section 217 income, you might have a balance owing, even if the election is beneficial. Make sure you include 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, Schedule B, 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, due to the fact that we approved your Form NR5, or for any other reason, you have to pay an amount to the CRA. The amount to pay is the difference between the required amount of non-resident tax and the amount withheld. For more information, contact us.

For more information

What if you need help?

If you need more information after reading this pamphlet, visit cra.gc.ca or contact us. You will find our address and telephone numbers on the back cover of this pamphlet.

Forms and publications

To get our forms and publications, go to cra.gc.ca/forms or call one of the following numbers:

- from Canada and the United States, **1-800-959-8281**;
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Tax Information Phone Service (TIPS)

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Monday to Friday (but not holidays)
9:00 a.m. to 5:00 p.m. (local time)

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From February 20 to May 1, 2017, except Easter weekend
From 9:00 a.m. to 9:00 p.m., (local time) on weekdays
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