

[enter name]
[enter care of information here]
PO Box 5233 STN Forces
Belleville, ON K8N 5W6

[enter date]

Winnipeg Tax Centre
PO Box 14001, Station Main
Winnipeg, MB
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Canada

To whom it may concern,

I am writing this letter to supplement my [year of taxes you are submitting] Tax Forms. My spouse, [rank and name of member] is in the Canadian Armed Forces. We are posted with [members chain of command (e.g., CDLS or NORAD)] to [location]. I have attached the posting message (dated _____), which states a spouse and two children [names and ages of children if applicable] are also posted with them for the duration of the posting, which commenced on [date you moved OUTCAN] and will end on or before [date your posting ends]. My family and I did not move to the United States to live here permanently rather, the Canadian government specifically the Canadian Armed Forces, have sent us here for the period indicated and we are here on a [your visa that you have been issued (e.g., NATO 2 Visa)] which has an expiration date. Upon completion of this posting the Canadian Armed Forces will be posting us back to Canada to continue our military service.

As stated in Canada Revenue Agency - Income Tax Folios Series 5, International and Residency – paragraph 1.17 (Tab B):

Generally, if there is evidence that an individual's return to Canada was foreseen at the time of his or her departure, the CRA will attach more significance to the individual's remaining residential ties with Canada.

The posting message, which I have included in this package, clearly states that I am posted with my spouse for a defined period of time and the Canadian Government will be posting us back to Canada upon the completion of our posting.

According to the tax treaty between Canada and the United States - Income Tax Convention, there are special provisions which apply to government employees and their dependents. Article IV of the Convention governs how to determine the residency status of an individual as it pertains to taxes when they reside in the United States. Paragraph 5 of Article IV is directly applicable to my situation, and it states (Tab C):

Notwithstanding the provisions of the preceding paragraphs, an individual shall be deemed to be a resident of a Contracting State if:

- (a) The individual is an employee of that State or of a political subdivision, local authority or instrumentality thereof rendering services in the discharge of functions of a governmental nature in the other Contracting State or in a third State; and
- (b) The individual is subjected in the first-mentioned State to similar obligations in respect of taxes on income as are residents of the first-mentioned State.
- (c) The spouse and dependent children residing with such an individual and meeting the requirements of subparagraph (b) above shall also be deemed to residents of the first-mentioned State.

This applies to my case because my spouse is an employee of Canada performing duties in the United States which are governmental in nature and is only subject to Canadian taxes while temporary posted to the United States for the period indicated in the posting message. Given the guidance in the preceding information as their spouse I should be deemed a factual resident of Canada.

I continue to maintain [\[banking/ties to Canada\]](#) and our extended family still resides in many parts of Canada. I will also add that I preserve my Canadian Passport, which I use to travel to Canada for personal travel. These facts are further indications of my residential ties to Canada.

I pay taxes to Canada on the income I receive from [\[any sources of income \(i.e. child tax benefit, tax free savings, etc.\)\]](#). I do not pay taxes to the United States under the Tax Convention between Canada and the United States.

Within Canada Revenue Agencies - Income Tax Folios Series 5, International and Residency - it clearly states my spouse, as a member Canadian Armed Forces is considered a deemed resident and is exempt from paying income tax in the United States under the Tax Treaty. Furthermore, because I am their spouse and reside with them in the United States for the duration of our posting, I am also entitled to this exemption and should be designated as a Factual Resident. I've included an excerpt of this provision below and request you pay particular attention to the information contained within para 1.34 (f)(ii) below as it directly applies to my situation.

1.34 In addition to individuals sojourning in Canada for a total of 183 days (or more) in any calendar year (see 1.32 and 1.33), subsection 250(1) ensures that any individual (other than a factual resident of Canada) who is included in any one of the following categories, is deemed to be a resident of Canada:

- a) individuals who were members of the Canadian Forces at any time in the year;
- f) individuals who at any time in the year were, under an agreement or a convention (including a tax treaty) between Canada and another country, entitled to an exemption from an income tax that would otherwise be payable in that other country in respect of income from any source, and:
 - ii) the individuals were entitled to the exemption because they were related to, or a member of the family of, an individual (other than a trust) who was resident (including deemed resident) in Canada at the particular time.

1.36 An individual who is not factually resident in Canada, but who is referred to in (a) to (f) of 1.34, is deemed to be resident in Canada regardless of where that individual lives or performs services.

To be clear, my family and I have been sent to reside temporarily in the United States by the Government of Canada. My spouse is a member of the Canadian Armed Forces and as such I am entitled to the exemption because of my relationship to them. I have no intentions of remaining in the United States at the end of our posting on [enter date posting ends] and I will be returning to Canada at that time.

To conclude, given the facts of my particular situation and given the policies and treaties that I have provided above, it is clear to me that I should be considered a resident of Canada for Canadian personal income tax purposes. I appreciate you taking the time to review my file and am available to provide further clarification pertaining to my situation at your convenience.

Sincerely,

[enter your name]