

Canada Revenue Agency – Spousal Residency Determinations for Families Posted OUTCAN

We are very pleased to announce the results of the collective efforts of Canadian Armed Forces (CAF) family members, the Chain of Command, Military Family Services and SISIP staff and other levels of government, in the area of the Canada Revenue Agency's (CRA's) residency determination procedures with regards to spouses of Canadian Armed Forces members posted out-of-country.

The CRA was made aware that a number of their residency determinations of military spouses posted OUTCAN had resulted in determinations of non-residency. For several years now, Canadian Armed Forces spouses who requested a residency determination in which they indicated they had no primary ties with Canada (i.e., no home, spouse or dependent children in Canada) have generally been considered "non-residents" of Canada. This was the case even though the military member is automatically "deemed" under the Income Tax Act to be a resident of Canada when posted OUTCAN. These non-residency determinations have had, in some cases, a negative effect on the financial health of the family, for example in areas such as maternity benefits and Tax Free Savings Accounts (TFSA). In some cases, following their request for a residency determination, families posted OUTCAN have been surprised with a request from the CRA for significant repayments or penalties.

We have been informed by the CRA that in conjunction with the Departments of Finance and Justice they have completed their review of their residency determination procedures with regards to spouses of Canadian Armed Forces members posted OUTCAN. Attached you will find an Information Sheet the CRA prepared for you.

In the case of CAF spouses, the CRA acknowledges the importance of their intention to return to Canada and therefore will give more weight to their secondary ties to Canada. As such, the CRA expects that determinations will result in CAF spouses retaining their status as "factual residents" of Canada. Therefore, a spouse who is relocated outside of Canada as a result of their Canadian Armed Forces spouse being posted will generally be considered a "factual resident" of Canada. Spouses will file their annual taxes as a "factual resident" using their last province of residency as their residence.

Military Family Services