

CLERGY RESIDENCE DEDUCTION

GUIDE FOR COMPLETING FORM T1223

Introductory Comments

1. An individual is entitled to the clergy residence deduction under paragraph 8(1)(c) of the *Income Tax Act* (the “Act”) if the individual meets the Act’s **STATUS TEST** of being a **member of the clergy**, a **regular minister of a religious denomination** or a **member of a religious order** as well as the Act’s **FUNCTION TEST** of **ministering to** or **being in charge of** a parish, diocese or congregation or of being engaged in **full-time administrative service by appointment of a religious denomination or a religious order**.
2. Form T1223 (the “Form”) must be completed as per subsection 8(10) of the Act. The employer of the individual making a claim and the individual have portions of the Form to complete. The Form is available via the Links section of CCC’s website - www.cccc.org - or from the local Tax Services Office of the Canada Revenue Agency (“CRA”), or from CRA’s website at www.cra-arc.gc.ca/E/pbg/tf/t1223/README.html

Completion of the Form is Required

3.
 - a) In the past, some individuals have claimed and been allowed the deduction for ministering to a congregation on the basis that the income they received for such ministry was income from an office. In such cases, it appears that CRA did not always require the individual to file a T4 with the return because some religious organizations considered that issuing a T4 would be a compromise of their religious beliefs that a religious worker serves no master on earth. Such religious organizations will now have to provide their religious workers with a completed T1223 form.
 - b) In our view such religious organizations are not required to compromise their religious beliefs by completing either the Form or issuing the T4 to support the information provided on the Form. The Act considers only two sources of income for tax purposes. Income is either employment income (either from employment or an office), or it is income from a business. For example, Members of Parliament receive remuneration from an office, because they are not employees of Parliament, but this remuneration is still reported on a T4 slip. The Act deems income from an office to be equivalent to income from an employer. All the tax rules applying to income received from a spiritual office are identical to those for income received from an employer. Treating income from an office as employment income should be less objectionable for those who believe that they are under the exclusive direction and control of God, rather than treating such income as business income.

Government Agencies as Employers

4. Some government agencies may not wish to complete the T1223 form for certain employees such as chaplains in hospitals or correctional institutions for various internal reasons. In these circumstances, it may be possible to rearrange the employment relationship in order for the individual to be employed by the organization with which the taxpayer has status. That organization in turn would receive payments for services rendered from the government institution to whom the individual had been assigned. For example, rather than a prison chaplain being employed directly by a correctional services agency, the chaplain’s ordaining

denomination could contract with the correctional agency and employ the chaplain to carry out the required pastoral services.

Level of Required Due Diligence

5. The “Employer” subsection requires the employer to “**certify**” that the particular employee meets the conditions for claiming the deduction which are set out in paragraph 8(1)(c) of the Act. Some employers may have difficulty determining whether certain members of their staff qualify for the clergy residence deduction (e.g. where the employer is not the one who granted the required status). The representative of the employer who completes the Form is only required to do so “to the best of my knowledge.” ***This means that an employer is not required to look behind an employee’s claim to meet the requirements for the clergy residence deduction unless the employer has existing knowledge that the claim is inaccurate.*** Thus, an employer should not refuse to complete the T1223 form unless the employer knows that the individual staff member does not meet the status test or function test. It is not necessary to obtain a legal opinion in every case prior to completing the Form (although this may be appropriate in some circumstances).
6. On the other hand, failure to complete the T1223 form accurately, having regard to the information available to the employer, has the potential to result in serious financial penalties for the individual employee, the certifying employer and even the individual employer representative who signs the Form.

Mechanics of Form Completion and Filing

7. The first bullet at the top of the Form requires the individual taxpayer to complete Parts A and C and the employer to complete Part B. The taxpayer’s name and social insurance number should be entered in Part A before Part B is completed and certified by the employer. The Form should then be provided to the employee after it is certified; it can then be used by the individual to calculate the amount of the eligible claim.
8. The second bullet at the top of the Form states that the Form does not need to be filed with the income tax return. It should be noted that subsection 8(10) of the Act specifically requires the Form to be filed with the return to qualify for the deduction. It could be argued that the requirements of the Act were not met if the Form is not filed. However, CRA’s current administrative practice to not require filing the Form likely means they will not take action in a review. Nonetheless, if you paper file, the prudent approach is to send the original of the Form with your tax return, but keep a copy for later review.
9. The third bullet refers the employer and the taxpayer for further information to Interpretation Bulletin IT-141, *Clergy Residence Deduction*. Please note that IT-141 has been superceded, with the current version being IT-141R Consolidated. Both the employer and the taxpayer should refer for further information only to IT-141R Consolidated, and to paragraph 8(1)(c) and subsection 8(10) of the Act. IT-141R Consolidated provides an accurate general summary of the terms associated with the deduction.
10. The T1223 is an annual form. The year it applies to must be put in the “Tax year” box of Part A.
11. The remainder of Part A needs to be completed by the employee and then passed on to the employer for completion of Part B.

Completing Part B

The following is a more detailed discussion dealing with the questions asked in Part B of the Form.

A number of questions in Part B are devoted to determining if an employee is a member of a religious order. The Form cannot capture all of the information which would be required by CRA or by a court to make this determination. However, the information which is requested is drawn from past decided court cases on religious order status which have provided a list of factors which are to be considered in determining whether an individual is a member of a religious order (please refer to paragraphs 8 to 11 of IT-141R Consolidated for details). As a result, religious orders should be particularly careful in answering the questions in Part B.

Just because your organization has, in the past, used particular terms to describe itself and its religious workers, does not mean that it should not consider changing these terms to make them more understandable to CRA, having regard to the words and phrases in paragraph 8(1)(c) of the Act identified in bold italics in paragraph 1 above and the information that follows below.

1. a) If you certify that the eligible worker is a ***member of the clergy***, give the title assigned to the employee such as: pastor, minister, commended worker, licensed minister, commissioned minister, evangelist, or any other title that applies to your denomination or religious organization.
1. b) If you certify that the eligible worker is a ***regular minister***, the duties that this person is qualified to perform should include: conducting religious services, administering sacraments or ordinances, pastoral care to seniors or youth, and any other spiritual duties that may be required.
1. c) If you certify that the eligible worker is a ***member of a religious order***, provide the name of the religious order. Please note that the religious order may not be the employer and, therefore, the name of the religious order may be different from the name of your organization. The Form indicates that if you ticked Part B, item 1. a) or b) you should go to question 3. In the case of a member of a religious order it may be appropriate, for example, to tick 1. a) and 1. c) where the individual is ordained and is also a member of a religious order.

Note regarding Part B, question 2: The elements of this question put into question format the characteristics indicative of a religious order set out by the courts and as summarized in paragraphs 8 to 11 of IT-141R Consolidated. Please read these paragraphs to supplement the following information.

2. a) If the answer to this question is “No”, that may be considered by CRA to be sufficient evidence that the organization is not a religious order. However, it should be noted that an employee may be considered to be employed on a full-time basis if sufficient time is devoted to carry out a specifically assigned function and the individual does not have employment or business income from other sources. *Please note that investment or rental income is not income from a business or from employment.*
2. b) If the answer to this question is “No”, that may be considered by the CRA to be sufficient evidence that the organization or its workers do not constitute a religious order. If “Yes”, you are asked to specify the restrictions. The CRA expects religious orders to state either that the worker is not permitted to earn outside business or employment income or that any outside employment income or incidental or related honoraria are to be turned over to the religious order.

2. c) CRA expects a religious order to have a serious process of training and testing of calling prior to admission to a religious order. Thus, the CRA will expect a religious order to show that admission to the order was either because of previous status with another religious organization (e.g. clergy, regular minister or member of another religious order), or because the worker completed a time of probationary membership and training requirements to be admitted.
2. d) If the answer to this question is “No”, that may be considered by the CRA to be sufficient evidence to question whether the organization is a religious order. If “Yes”, at the very least a member of a religious order must have expected of him/her:
 - significant self-sacrifice,
 - a lifestyle and morality expectation that transcends that of an ordinary churchgoer (or fellow co-worker who is not a member of the order), and,
 - an ardent, demonstrated commitment to the cause of the particular order.
3. a) In charge of a diocese, parish, or congregation denotes administrative and spiritual oversight as a significant part of the job requirement. A parish, diocese or congregation could include: an independent local church, a local congregation of a denomination, a congregation consisting of the religious order, or the regional or district office of a denomination.
3. b) Ministering to a diocese, parish, or congregation is distinct from 3. a) in that the job functions required in this case would not normally include administration and oversight. This job function would relate to individuals who devote substantially all their time to direct ministry. Past courts have concluded that ministry to a congregation would include personal individual pastoral care and ministry to a group that changes frequently (e.g. ministry of a hospital chaplain).
3. c) The full-time administrative service by appointment of a denomination or a religious order brings into the scope of the function test those who are neither in charge of the diocese, parish, or congregation and who do not engage primarily in direct ministry. Pursuant to the CRA’s policy, those who have status under 1. a), b), or c) and who are engaged in administrative positions that require supervision of others or who have policy decision authority would qualify under this function.
4. The Form states that the employer should provide the worker’s job title and a list of his/her duties, or a copy of the individual’s job description should be attached. The purpose is to provide a brief description to verify the function requirement of 3. a), b), or c). Therefore, the description should be clear with respect to those issues. For example, the president, executive director, or another most senior person in a diocese, parish, congregation or religious order should be identified as: “The most senior officer of the organization who is in charge of all the affairs and personnel of the organization.” Likewise, an individual who ministers to a diocese, parish, or congregation should be identified as: “Minister of preaching,” or “Minister of member care,” or “Minister of music,” or “Minister of youth,” or “Minister of counselling,” etc. In the list of duties, list those that clearly support the job title. The list of duties should be brief and it is not normally helpful to attach a detailed job description since these tend to ignore the primary duties and emphasise the mechanical aspects of duties that relate to the position.
5. The answer to this question is straight forward. Either answer “yes” if the accommodation is provided, or “no” if it is not. If accommodation is provided (including utilities paid by the employer), there will be an amount put by the employer in Box 30 of the T4 slip. If the accommodation is not provided (e.g. the employee rents or owns his/her home), Box 30 of the T4 slip will be blank.

An item of note: Some employers budget for their employee's remuneration in component pieces (e.g. "stipend", "housing allowance", etc.). This is fine for budgeting purposes but a "housing allowance" is not applicable for payroll purposes in determining proper statutory deductions. The Act and the Canada Pension Plan Act requires the clergy residence deduction amount be used; not an artificial, employer-determined "housing allowance". Accordingly, **a cash "housing allowance" is not to be placed in Box 30 of the T4 slip** because Box 30 is exclusively reserved for the taxable benefit value of accommodation provided by an employer to an employee (e.g. the fair market rental value of a supplied manse, parsonage, etc.) plus the cost of utilities paid by the employer for such accommodation. Accordingly, answering "no" to this question while inappropriately reporting a "housing allowance" in Box 30 of the T4 slip creates a conflict of information and could encourage a CRA review and/or audit.

It is also possible that an eligible individual may have accommodation provided by the organization and self-supplied accommodation during the same year. The employer should answer this question with a "yes" in this case (so there is no conflict with this answer and a Box 30 entry having been made on the T4 slip) and the employee can use the "Consolidated Calculation" at the end of this guide to assist in determining the correct deduction amount.

Completing the Employer Certification

The individual for whom the Form is being signed should not be the same person who signs the Form even if that person is the most senior officer in that organization. In that case, the Form should be signed by the chair or secretary of the board.

Completing Part C

The calculation in this section applies only to those individuals for whom accommodation was not provided. ***If accommodation was provided, an amount should be included in Box 14, shown in Box 30 of the T4 slip and that amount should be entered on line 231 of your return.*** Make certain that no amount shows in Box 30 of the T4 if accommodation was not provided. ***If an amount is included in Box 30 of the T4 and accommodation was not provided, ask your employer to issue an amended T4 without an amount in Box 30.*** As noted above in Part B, question 5, some organizations pay their workers an amount that is called a "housing allowance". Such an amount has nothing to do with the clergy residence deduction and should be included only in Box 14 of the T4, without being noted in Box 30.

If you worked for more than one qualifying employer during the year, each of them must issue a T1223 form to you. Make certain that you enter only the information relating to the employer who issued the Form on each particular Form. If you had more than one qualifying employer or you had both accommodation supplied by your employer and self-supplied accommodation in the same year, you will not be able to use this form as the final method of calculation. A consolidated calculation is provided for you below. ***This calculation along with Form T1223 should be filed with your income tax return.***

All the lines in the calculation are self-explanatory except for Line 7. This is discussed below.

Line 7: This line requires you to deduct all other amounts that were claimed by you or any other person for income tax purposes with respect to the accommodation. This is designed to prevent an unintended or inappropriate double deduction (e.g. two qualifying spouses both claiming a clergy residence deduction for the same house).

Line 7 is to include any amount that another person living in your residence may have claimed with respect to the clergy residence deduction.

Line 7 is also to include any business expense deductions that you, your spouse or another person living in your residence may have claimed with respect to the accommodation. Accordingly, by declaring business expense deductions (if applicable) on Line 7, you will remain compliant with paragraph 8(1)(c) of the Act which requires that the clergy residence deduction be made for the "living accommodation occupied by the taxpayer". If a portion of the accommodation is occupied by a business, it is factually then not occupied by the taxpayer.

Please note that if a person who is a member of a religious order personally claims business expenses that will be strong evidence that the requirements of Part B, question 2. b) of the Form have not been met.

Renting any part of the accommodation or residence to others is not a business. Rental income is income from property and should not be of concern with respect to Part B, question 2. b) of the Form.

Clause 8(1)(c)(iv)(B)(II) of the Act requires the individual's clergy residence deduction to be reduced by an amount deducted in computing "an individual's income" (i.e. any individual). If a portion of an individual's principal residence is leased to a person who is entitled to deduct the rent paid in computing such person's employment or business income, it would appear that the individual's clergy residence deduction would also be reduced by the tenant's claim. Since the individual would have no knowledge of such claims and would not be entitled to such information, it would appear that the words "an individual's income" would be restricted to the income of the individual and the individual's spouse.

Additional Resources:

This guide is a complementary resource to the information provided in the CCCC Charities Handbook, the Technical Support area of the Members section of our website (www.cccc.org) and the information contained in our webinar series on payroll topics. If you are a CCCC Member, please refer to these resources to assist you further.

If you are not a CCCC Member, please visit our website (www.cccc.org), click on Charities at our home page and select "About Membership" for details about the benefits of Membership, our fee structure and how to join.

Consolidated Calculation

The number of months worked in the year for an employer where the employer provided free accommodation for all or part of such period under certificate 1 _____ 1

Number of months worked under certificate 2 _____ 2

Number of months worked under certificate 3 _____ 3

Number of months worked under certificate 4 _____ 4

Total number of months ⁽¹⁾ _____ 5

Income from all certificates including income from the employment where housing was supplied ⁽²⁾ \$ _____ 6

1/3 of Line 6 \$ _____ 7

Number of months in qualifying work (max. 10) ⁽³⁾ _____ 8

Line 8 times \$1,000 \$ _____ 9

Greater of Line 7 and Line 9 \$ _____ 10

Actual rent and utilities paid or, if residence owned, fair rental value and utilities for the periods covered by certificates 2, 3 and 4 \$ _____ 11

Deduct All amounts claimed by you or by your spouse for any reason in respect of the accommodation \$ _____ 12

Line 11 minus Line 12 \$ _____ 13

Enter the lesser of:

Line 10 or Line 13 \$ _____ 14

Line 6 or Line 14 \$ _____ 15

Amounts included in Box 30 of your T4 slips ⁽⁴⁾ \$ _____ 16

Least of Lines 14 and 15 \$ _____ 17

Add Lines 16 and 17 and enter total on Line 231 of your return \$ _____ 18

⁽¹⁾ The total number of months may exceed 12 because an individual may work for more than one qualified organization at the same time or employment may be changed during the month which permits the same month to be counted for two employers.

⁽²⁾ To apply the 1/3 of income test the Act includes all income from qualifying employment even though the test is applied only where the individual rents or owns the principal residence.

⁽³⁾ Where the same months are covered by Certificates 1, 2, 3 and 4, if applicable (i.e. where the months overlap because the work was done simultaneously during the same months), such double or triple counted months should only be counted once.

⁽⁴⁾ Do not include amounts relating to months during which you rented or owned your own principal residence. If such amounts are included, request an amended T4 slip from your employer.