

CLERGY RESIDENCE DEDUCTION

Guide to Completing Form T1223



Resource Document
Pastor Resource

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Introductory Comments

1. An individual is entitled to the clergy residence deduction under paragraph 8(1)(c) of the Income Tax Act (ITA) if the individual meets the **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 **FUNCTION TEST** of *ministering to or being in charge of a parish, diocese or congregation or of being engaged in fulltime administrative service by appointment of a religious denomination or a religious order*.
2. The T1223 is divided into three parts. In Part A the employee identifies him or herself. The employer completes Part B. The employee completes Part C for the calculation of the deduction.
3. The clergy residence deduction is to be deducted from income from qualifying employment, defined as the remuneration received from the office or employment which qualifies the individual for the clergy residence deduction during the period of the year in which income was earned from qualifying employment.
4. Subsection 8(10) of the ITA provides that a clergy residence deduction requires Form T1223 to be completed, and that it be signed by the employer certifying that the required conditions have been met. 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 Form T1223 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 prior to completing the form (although this may be appropriate in some cases).
5. On the other hand, failure to complete Form T1223 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

6. The first bullet at the top of Form T1223 requires the employee to complete Parts A and C and the employer to complete Part B. The employee’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; the employee can then calculate the amount of the eligible claim in Part C.
7. The second bullet at the top of Form T1223 states that the form does not need to be filed with the income tax return. The ITA requires the form to be submitted with the taxpayer’s tax return. It could be argued that the requirements of the Act were not met if the form is not filed. CRA allows an administrative concession that the taxpayer may retain the T1223 if he or she files

electronically. Nonetheless, if you paper file, the prudent approach is to send the original copy of the form with your tax return, and keep a copy for your records. The form must be available to CRA for review, if requested.

8. The third bullet refers the employer and the employee for further information to Interpretation Bulletin IT-141, *Clergy Residence Deduction*. Please note that IT-141 has been superseded, with the current version being IT-141R (Consolidated). Both the employer and the employee 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.

9. The T1223 is an annual form. The year it applies to is noted in the 'Tax year' box of Part A.

Completing Part B – Conditions of employment

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. 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 ITA identified in bold and 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. Provide a copy of his or her proof of appointment (e.g. an ordination certificate)

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. Specify the spiritual duties the employee is authorized to perform. Provide the name of the religious denomination and describe how he or she was appointed. The denomination's name and a simple statement of its appointment process should suffice (e.g. Ordination ceremony, Issuance of ministerial license)

1. c) If you certify that the eligible worker is a ***member of a religious order***, provide the name of the organization, if different from the employer, that appointed this employee to his or her position and describe how he or she was appointed. CRA is now requiring more details if the appointing body is not also the employer. A simple statement should suffice (e.g 'Appointed by the Head Office of EMCC to serve at <employer's name>')

The form indicates that if you ticked Part B, 1.a) or b), 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 c) where the individual is ordained and is also a member of a religious order.

2. a) If the answer to this question is 'No', that may be considered by the 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. 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 or 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 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 must provide the employee's job title and a copy of his or her job description describing all of his or her duties. The description should indicate the percentage of time per week that each duty takes. 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 counseling," etc.

5. The answer to this question is straightforward. Either answer 'yes' if the accommodation is provided, or 'no' if it is not. If accommodation is provided (including utilities paid by the employer), the total amount will be reported by the employer in Box 30 of the T4 slip. If the accommodation is not provided (i.e. the employee rents or owns his or her home), Box 30 of the T4 slip will be blank.

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 require 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 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 Form T1223 is being signed should not be the same person who certifies the form even if that person is the most senior officer in that organization. In that case, the chair or secretary of the board should sign the form.

Completing Part C – Calculation of deduction

If accommodation was provided, the amount included in Box 14, and shown in Box 30 of the T4 slip should be entered on line 231 of your return.

The calculation in Part C applies only to those individuals for whom accommodation was not provided. If accommodation was not provided, make certain that no amount shows in Box 30 of the T4. 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 as income 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 at the end of this guide. **This calculation along with Form T1223 should be filed with your income tax return.**

All the lines in the calculation are self-explanatory with the exception of 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, the taxpayer does factually then not occupy it.

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, 2. b) of the Form T1223 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, 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 Eligibility Requirement in Quebec

The province of Quebec, effective as of the 2007 taxation year, has added a usage test to its provincial eligibility requirements for the clergy residence deduction under its Taxation Act. This usage test requires the taxpayer to make use of or utilize his residence in the course of his office or employment. Exactly what amount of usage will be required to be eligible for the deduction is not yet know. The rationale for the changes appear to be based on the observation that the homes of certain clergy are less frequently used as offices or meeting spaces in carrying out their duties.

Religious workers in Quebec who bear the cost of their own accommodations will continue to be eligible for the Quebec deduction if they use their homes in performing their religious duties as an office or meeting space. This applies to those not living in a church manse or parsonage.

Additional Resources:

- CCCC Charities Handbook
 - http://www.cccc.org/charities_handbook
- IT-141R (Consolidated)
 - <http://www.cra-arc.gc.ca/E/pub/tp/it141r-consolid/it141r-consolid-e.pdf>

CLERGY RESIDENCE DEDUCTION

Consolidated Calculation

For qualified individuals who have worked for more than one qualifying employer OR had accommodation supplied by an employer and self-supplied accommodation in the same year

Number of months worked in the year for an employer where the <u>employer provided free accommodation</u> 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 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 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
Enter the lesser of Line 6 or Line 14	\$ _____	15
Amounts included in Box 30 of your T4 slips ⁽⁴⁾	\$ _____	16
Enter the lesser of Line 14 or Line 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 when an individual may work for more than one qualified organization at the same time or employment may change 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.