

## **IC84-6 Canada - United States Social Security Agreement**

### CANADA - UNITED STATES SOCIAL SECURITY AGREEMENT

84-6 December 28, 1984

1. This Circular is for the information and guidance of people who are working or will work in both Canada and the United States. It outlines the provisions of the Agreement which eliminate dual coverage situations under the Canada Pension Plan and U.S. Social Security which existed in the past. This Agreement became effective August 1, 1984.

2. The Agreement establishes a general territoriality rule which stipulates that a person's work within the territory of one of the countries may be compulsorily covered only by the social security system of that country. Thus, a person working in employment who would otherwise be covered under the laws of both countries will be covered only under the system of the country where the work takes place and will be exempt under the system of the other country.

3. There are exceptions to this general rule, such as when an employee is required by an employer to work temporarily in the territory of the other country. In these cases the employee normally remains covered by the first country (as if the employee were doing the work in its territory) and exempt under the laws of the other country. This would apply to persons whose employment requires them to work across the border occasionally or repeatedly for short periods (such as truck drivers or professional athletes) as well as to those who are transferred by a parent company to a subsidiary, or vice-versa, between Canada and the United States. The five-year term of coverage may be extended if the authorities of the two countries agree. Requests for extensions should normally be made before the end of the current term. (See 12 below for where to send the request.)

4. The Agreement also provides special rules for government employees who might otherwise find themselves covered under the laws of both countries. Basically, it ensures that employees of the government of one of the countries (including diplomatic and consular personnel) who are sent to work in the other country are exempt under the social security laws of the other country. Locally engaged employees who are hired in one country to work in that country for the government of the other country are normally covered only under the laws of the country where the work is done, if they are otherwise liable for coverage under the laws of that country. Thus, of the locally engaged personnel of the Canadian government in the United States, only U.S. citizens will contribute to U.S. Social Security. Persons of other nationalities are excluded. Whether the latter will contribute to the Canada Pension Plan will depend on their terms of employment. Conversely, of the locally engaged personnel of the U.S. government in Canada, those who are U.S. citizens will be excluded from the Canada Pension Plan; all others will generally be required or permitted to contribute.

5. Workers who might otherwise have to contribute to the social security plans of both countries in respect of employment as an officer or member of the crew of a ship or aircraft will contribute only to the Canada Pension Plan if they are residents of Canada. They will

contribute only to U.S. Social Security in any other case.

6. Similarly, self-employed persons who might otherwise have to contribute to the social security plans of both countries will contribute only to the Canada Pension Plan if they are residents of Canada and only to U.S. Social Security in any other case. This provision will primarily affect self-employed U.S. citizens who reside in Canada and who, were it not for the Agreement, would be covered under Canadian law because they reside in Canada and would also be covered under U.S. law because they are U.S. citizens.

7. The Agreement also deals with the situation of a person who might otherwise have to contribute to both plans in respect of an activity that one plan considers to be employment and the other self-employment. Basically, when the worker is a resident of the country where the activity is considered to be self-employment, the self-employment rule of the Agreement applies, as described in 6 above. In any other case the employment rules apply, principally those described in 2 and 3 above. The following example will illustrate this: Under the respective national laws, a U.S. citizen who works in Canada as a minister of religion is liable for coverage as a self-employed person by U.S. Social Security and as an employee by the Canada Pension Plan. Under the Agreement, such an individual will retain U.S. coverage but become exempt from contributions to the Canada Pension Plan if U.S. residency is retained or if the individual is assigned to work in Canada, for a period of up to 60 months, by a synod or central church organization in the United States. In any other case, the Canada Pension Plan will prevail and such an individual will be exempt from contributions to U.S. Social Security.

8. The Agreement includes special rules for certain exceptional cases. For instance, if under the normal rules coverage would be provided by one of the countries but there is some obstacle to that country providing it, the other country may provide the coverage if its laws permit. A person who is covered by one of the countries and, because of a similar agreement with a third country, is also covered in respect of the same work by the other country or by the third country, may be exempted by the first country.

9. Each country will issue "certificates of coverage." These will confirm that a particular worker is covered under the social security laws of that country in respect of a particular employment. The certificate may be used to claim an exemption from contributions under the laws of the other country in respect of the same employment or activity. Workers should note that Canada will not normally issue certificates of coverage under the Canada Pension Plan to residents of Canada in respect of work done in Canada or work done in the United States during visits there of six months or less. See 12 below for details on how to obtain a certificate in other circumstances.

10. In cases where, as indicated above, a person's coverage depends on the country of residence, problems may arise if there is uncertainty about where the individual ordinarily resides. Where there is a difference of opinion between the authorities of the two countries which results in dual coverage or no coverage, or where there is a difference of opinion between the worker and the employer or the authorities of one of the countries, which is likely to jeopardize the worker's coverage, the worker may request a ruling concerning the residency status. A person who requires a ruling should apply to the authorities of the country of which

the individual claims to be a resident, as described in 12 below. Before issuing a ruling, the authorities of the two countries consult with one another and the ruling will therefore reflect their common position.

11. Rulings may also be obtained in the circumstances described in 7 above, when there is uncertainty about which of the employment rules applies. Normally, this is expected to occur only when a person moves from the country in which the activity is considered to be self-employment and becomes a resident of the other country where it is regarded as employment. A ruling would probably be useful only if there was uncertainty about whether the former country's coverage would continue. The ruling should be requested from the former country as outlined in 12 below.

12. Requests for a certificate of coverage under the Canada Pension Plan (see 9 above) or for an extension of coverage under the Canada Pension Plan (see 3 above) may be addressed to:

Accounting and Collections Division Department of National Revenue, Taxation 875 Heron Road Ottawa, Ontario Canada K1A 0L8

The Accounting and Collections Division will also accept requests for rulings in the circumstances described in 10 and 11 above, where a worker claims to be a resident of Canada and/or expects to be covered by the Canada Pension Plan.

13. Requests for certificates, extensions and rulings concerning United States coverage should be sent to:

Social Security Administration International Program Policy Staff 1104 West Highrise 6401 Security Boulevard Baltimore, Maryland 21235 U.S.A.

14. Requests that are inadvertently sent to the wrong country's agency will normally be forwarded to the appropriate agency. To avoid confusion, workers are asked not to address both agencies about the same matter.