

IT298 Canada - U.S. Tax Convention - Number of days present in Canada

INCOME TAX ACT Canada-U.S. Tax Convention - Number of Days "Present" in Canada.

IT-298 March 8, 1976 Subsection 2(3) (also Article VII of the Canada-U.S. Tax Convention.)

1. A resident of the United States who receives compensation for personal services performed in Canada, should determine the number of days he was present in Canada during the taxation year when considering the application of Article VII of the Canada-U.S. Tax Convention. In this regard the word "day" is generally understood to mean a day during which a resident of the United States was physically present in Canada, without regard to the number of hours in the day that he was present in Canada. Different rules apply, however, to those who are engaged during the normal course of employment in providing international transportation services touching points within the United States and Canada, due to the nature of their work requiring frequent and sometimes numerous border crossings.

2. Effective for 1975 and subsequent taxation years, the following rules should be followed by those engaged in international transportation services in determining the number of days they are present in Canada: (a) The performance of labor or personal services during eight hours or more in any one day within Canada shall be considered as one day within Canada; except that if a period of more or less than eight hours is considered a full day in the transportation job involved, such period shall be considered as one day within Canada. (b) The performance of labor or personal services during less than eight hours in any day in Canada shall, except as provided in paragraph (a) above, be considered as a fractional part of a day within Canada. The total number of hours during which such latter services are performed in Canada during the taxation year when divided by eight shall be the number of days during which such United States resident shall be deemed to be present in Canada within the meaning of this paragraph. (c) The total number of days determined as provided in (a) and (b) above shall be deemed to be the total number of days during which such resident of the United States was present in Canada during the taxation year for the purpose of Article VII.

3. The performance of labor or personal services on a steamer or other craft while plying in waters between Canada and the United States will not, for the purpose of Article VII, be considered as performance of personal services within Canada.