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Tax Relief Measures for Canadian Resident Students Studying in the United States or Vice-Versa

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The *Canadian Income Tax Act* (“**ITA**”) and the Canada-United States (“**US**”) treaty provides some tax relief measures to Canadian resident students who wish to study in the US or vice-versa. Measures include tuition fee credits for Canadian resident students studying full-time in the US or a credit for Canadian resident students who commute, study part-time in the US and reside near the Canada-US border. There is also tax relief from the treaty on US scholarships received by a US resident student studying in Canada.

As well, there is tax relief from the ITA on Canadian or US scholarships received by a Canadian resident student studying in the US, and Canadian scholarships received by an American resident student studying in Canada (assuming the student in either scenario is not employed). Moreover, the Canadian legislation allows for a deduction on moving expenses incurred by a Canadian resident student to study in the US, and withdrawals from a Registered Retirement Savings Plan (“**RRSP**”) under the Lifelong Learning Plan (“**LLP**”) program and the Registered Education Savings Plan (“**RESP**”) for a Canadian resident student.

Tuition fee credits for Canadian resident students studying full-time or part-time in the US



A Canadian resident student studying at a US university may be entitled to a tuition fee credit. In general, a student would need to be studying on a full-time basis and be working towards a bachelor’s degree or equivalent to be able to claim the non-refundable tuition fee tax credit. Furthermore, each course that is claimed for the tuition credit must last at least three consecutive weeks and tuition paid must total more than \$100.

A Canadian student is considered to be studying on a full-time basis if they are either physically present on the campus of the university or attend classes virtually if the courses are scheduled and conducted online only. Fees paid to a US university for distance-learning courses where assignments and work are assigned via email and submitted electronically and allow for the student to study at their own pace do not qualify for the tuition credit claim.

Students studying on a part-time basis can only claim a tuition credit if they reside near the Canada-US border for the full tax year and commute regularly to the US university. The minimum amount of tuition paid must be more than \$100. However, the course does not have to last more than three consecutive weeks and does not have to lead to a degree. Moreover, the distance between the student’s residence and the university must be close enough to allow for daily commute back and forth by car, bus, or train. If the student’s commute includes airline travel more than three times a semester, he or she will not qualify for the tuition credit claim.



Scholarships received by a US resident student studying in Canada or Canadian resident student studying in the US

A US resident student studying in Canada who receives a scholarship from the US is exempt from tax in Canada on the scholarship based on the Canada-US treaty. The scholarship will be considered to arise in the US if the payer is located in the US. If a US resident student receives a Canadian scholarship the student will be exempt from tax in Canada under the ITA unless it is

received in relation to employment, in which case it would be included as employment income. To be eligible for the exemption on the Canadian scholarship received by the US resident student studying in Canada the student needs to be enrolled on a full-time basis at a university, college or other educational institution designated by the province under the *Canada Student Loans Act*.

If a Canadian resident student receives a scholarship from either the US or Canada for studies in the US, they will also be exempt on that scholarship provided that it is not received in relation to employment. If it is received in relation to US employment and is included in income for Canadian tax, there may be relief provided through foreign tax credits. For a Canadian resident student to be eligible for the exemption on a non-employment related scholarship from either the US or Canada, for studies in the US, the student needs to either be studying full-time in the US working towards a degree and enrolling in a course that lasts at least three consecutive weeks or studying part-time at a US university and residing near the Canada-US border throughout the tax year and commute regularly to the university.

Moving expenses incurred by a Canadian resident student to study in the US

If a Canadian resident student moves to the US to study and incurs moving expenses, they may be eligible to claim a deduction on their tax return. To claim moving expenses, the move must have occurred to allow the student to attend the US university on a full-time basis, and the student must ordinarily reside at the new residence which also must be at least 40 kilometres closer to the university.

Ordinarily reside means a place where the student has settled and regularly, normally, or customarily lives.

The deduction taken cannot exceed the student's income for the year and can only be made if the expense has been paid for in the year. If the moving expenses eligible for the deduction exceed the student's income, the excess can be deducted in a subsequent year.



Withdrawals from a Canadian resident student's RRSP under the LLP program and RESP

Withdrawals of up to \$10,000 per calendar year (and \$20,000 in total), can be made from a Canadian resident student's RRSP account under the LLP even if the university is in the US, however the requirement for full-time studies is that the course must last at least three consecutive weeks and must lead to a degree. Withdrawals can also be made for part-time studies provided that the student lives near the Canada-US border and commutes to the US university to take the course.

Furthermore, withdrawals are permitted from a Canadian resident student's RESP for study at a US university as long as the course lasts at least three consecutive weeks.

Final Considerations

Understanding the tax impact and compliance requirements of cross-border studies can be complex, with numerous variables affecting each student's circumstances differently. If you are studying at home or abroad and have questions regarding navigating tax compliance, we encourage you to reach out to Crowe Soberman's Tax Group for answers and professional advice.

This article has been prepared for the general information of our clients. Specific professional advice should be obtained prior to the implementation of any suggestion contained in this article. Please note that this publication should not be considered a substitute for personalized tax advice related to your particular situation.

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