# How to Determine the Province of Employment for Remote Workers

The pay of employees in Canada is subject to source deductions for income tax, EI, CPP/QPP, and QPIP. The amount of source deductions depends on the employee's province of employment (POE). Accordingly, payroll must determine the POE for each employee to ensure accurate source deductions. This can be tricky when employees telecommute, particularly if the remote workplace is in a different province from the company's physical office or facility. In this situation, you must follow the new Canada Revenue Agency (CRA) Administrative Policy for remote work arrangements. Here's a quick briefing on how to do that.

## The New CRA Remote Work POE Policy

POE is based on 3 factors:

- The employee's residency;
- The nature of the income the employee earns; and
- The location of the employer's establishment where the employee reports for work.

Figuring out where employees report for work is straightforward when the employee works at the company's physical establishment. For example, Ontario would be the POE for employees who work in a company's Toronto office. But what about the employees of that company who telecommute from, say, Alberta or any other province?

According to the CRA Policy, an employee in a "full-time remote work arrangement" is considered to be reporting for work at an establishment of the employer if the employee is reasonably considered to be "attached to an establishment of the employer." The rule isn't as convoluted as it sounds. There are 2 basic steps you must take to apply it.

## Step 1. Determine If the Telecommuter Is in a Full-Time Remote Work Arrangement

The Policy says that the CRA will generally consider an agreement between the employer and employee to be a full-time remote work agreement if:

- The agreement is either temporary or permanent;

- The employer directs or allows employees to perform their employment duties full-time (100%) remotely; and
- The employment duties are to be performed at one or more locations that are not establishments of the employer, such as the employee's home.

The second prong requirement that the duties be done 100% remotely excludes arrangements in which telecommuters are allowed to work from home most of the time but must report to the office a certain number of days per week or month.

## Step 2. Determine If the Telecommuter Is Attached to an Employer's Establishment

If the telecommuter doesn't have a full-time remote work arrangement, the CRA Policy doesn't apply. But if it is such an arrangement, you must go to step 2 and figure out if the employee can reasonably be considered attached to an establishment of the employer based on the specific facts involved considering the Primary and Secondary Indicators listed in the Policy.

### Primary Indicator of Attached

The primary indicator that an employee can reasonably be considered "attached to an establishment of the employer" is whether, if not for the full-time remote work arrangement, the employee would physically come to work to carry out their employment duties at that establishment. If an employee physically reported to an establishment of the employer for work **immediately before** entering into a full-time remote work agreement, that establishment is the one to which they'd be considered attached, unless the employee's circumstances or duties have changed.

### Secondary Indicators of Attached

The Policy lists 5 secondary indicators to use to determine the establishment of the employer where an employee, if not for the full-time remote work agreement, would go to carry out their employment duties:

- The establishment where the employee attends or would attend in-person meetings, via any type of communication.
- The establishment where the employee receives or would receive work-related material, equipment, or associated instructions and assistance.
- The establishment where the employee comes or would come in-person to receive instructions from the employer on their duties, via any type of communication.
- The establishment that's responsible for or supervises the employee, as indicated in the contracts between the employer and employee; and
- The establishment to which the employee would report based on the nature of the employee's duties.

## What to Do

To ensure compliance, HR and payroll managers should review their current arrangements with all of the firm's telecommuters to ensure that the POE used for determining source deductions aligns with the criteria set out in the CRA Policy. If it doesn't, you may have to change the POE of certain telecommuters. In all events, be prepared to show that your determinations of POE under Steps 1 and 2 are "reasonable," that is, supported by the facts of each telecommuter's employment situation. Attaching a telecommuter to an establishment isn't reasonable if its purpose is to avoid source deductions or payroll contributions in a province or territory.

Also keep in mind that it’s possible to conclude that a telecommuter may be reasonably considered attached to more than one of your company’s establishments. If this happens, use the same 5 indicators to determine which establishment the telecommuter can reasonably be considered as being **more** closely attached to.