

# Letter to CRA

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from: CANADIAN ASSOCIATION OF POSTDOCTORAL SCHOLARS

subject: CLARIFICATION OF STATUS OF POSTDOCTORAL FELLOWS IN CANADA

date: January 26, 2009

We wish to clarify the nature and role of an academic postdoctoral fellowship (PDF), and request clarification on our interpretation of taxation legislation, in support of a uniform taxation policy for this group. For reasons outlined below and in Appendix A, we believe that academic PDFs (see below) meet, via the traditional PDF training program of mentored research under the guidance of a faculty advisor, the requirements for eligibility to receive T2202 or T2202A forms and consequent exemption of T4A code 05 income from taxation. Please confirm that this interpretation is correct. If unable to do so due to changes to the Income Tax Act, please confirm these requirements were met for the years preceding these changes, in particular 2006–2008. For individual PDF eligible to receive T2202/A forms for previous tax years but were not issued these forms at that time, please confirm that their institution is permitted to issue the forms retroactively for the years in question. Please also confirm our contention that individual PDF should not be subjected to conflicting rulings on student/employment status such that they are simultaneously denied both the scholarship/fellowship income exemption, and employment benefits such as EI/ CPP. We outline below a suggested mechanism for fair and uniform treatment of PDFs based on categorization according to the CRA and Tax Court of Canada rulings process, as supported by government funding agencies and educational institutions.

## **Background:**

It has come to our attention that there is a certain lack of clarity regarding the meaning of the term “Postdoctoral Fellow”. This is due to the fact that there are at least two distinct groups to which the terms ‘Fellow’ or ‘Doctor’ could be applied. These titles can designate individuals with a Ph.D. (who when engaged in additional research training is known as a PDF), and Medical Doctors (MDs; when pursuing additional clinical training known as

Clinical Fellows). Although the term Postdoctoral Fellow is sometimes used for Clinical Fellows as well, we will reserve this term (and the abbreviation PDF) here for those engaged in academic research training, to avoid confusion. Clinical and Postdoctoral Fellows may be present in the same physical setting (e.g. research hospitals), and both, by virtue of their education, are “post-doctoral”. However, the terms and objectives of their engagements differ significantly. Clinical fellows undergo an apprenticeship in their chosen medical field and are required to perform clinical duties within the hospital setting, with income derived from health care budgets rather than academic research grants (from which PDFs are supported).

A PDF is an individual in receipt of a doctoral degree, who elects to remain in the academic setting to extend his or her training beyond their doctoral research work. While in the past receipt of a doctoral degree may have been sufficient in most cases for the establishment of a career as an independent researcher; competitive research programs now mandate additional training beyond receipt of the Ph.D. degree. The PDF position has increasingly moved from being an optional, short term (1-3 year) step in the research career path to an essential period of post-graduate training (now averaging 5 or more years) required of all who wish to advance to faculty or industrial scientist positions. This training is designed to enhance the scholar’s skills, provide exposure to complimentary or different fields of study, and improve the publication record of the scholar in preparation for future careers. It is performed with a minimal level of financial support. As such, this is a position similar in aims to the preceding Ph.D. (and/or M.D.) study period.

Indeed, PDFs have been ruled to be equivalent to “students” by the Tax Court of Canada (*Bekhor v M.N.R.*, citation 2005TCC443, paragraph 39):

*“...[the relationship] was one of advanced student and professor, not one of employee and employer. The stipend received was in the nature of financial assistance provided to a learning postdoctoral fellow, not remuneration for services rendered by an employee to an employer.”*

This ruling was a denial of a request by a PDF to be ruled an employee eligible for CPP/EI Benefits. Similarly, the National Cancer Institute of Canada funding agency declares that “*The NCIC considers student and postdoctoral fellow salaries to be training awards as defined by Section 56(1)(n) of the Income Tax Act.*” [\[1\]](#)

In recognition of the nature of the PDF position as one of training, not employment, several academic institutions across the country have formalized training of PDFs (i.e. Dalhousie University and University of Ottawa). These institutions recognize that PDFs in the first 3-5 years post completion of their doctoral degree require additional training to be competitive in their chosen careers. These PDFs register for and enter into structured training programs, receiving T2202A and T4A code 05 forms. These institutions reclassify those who complete this training but have not yet moved on in their career path as employees of the institution. This classification scheme is well received by the PDFs of these institutions, providing a clear distinction between student/trainee and employee categories; however uncertainty surrounding the position of PDFs in the eyes of the CRA has prevented other institutions from pursuing a similar course of action.

#### **Proposed solution:**

The problem facing the Canada Revenue Agency and the Ministry of Finance is essentially that of distinguishing *bona fide* recipients of the scholarship/fellowship income exemption from individuals earning substantial professional income.

We recognize the complexity of this question, and that while some broad categorization is possible; ultimately a mechanism is required to make this discrimination at the level of individual cases. Fortunately, such a mechanism is already in place under the CRA EI/ CPP Rulings process and related processes at the Tax Court of Canada. We propose that the CRA recognize eligibility of PDFs to receive a form T2202 or T2202A (and hence eligibility to receive the income tax exemption for scholarship and fellowship income) based on the status of the individual as a student/trainee or employee for purposes of a standard CRA EI/ CPP Ruling. Where the distinction is clear, no actual ruling would be required, however in case of disagreement the normal process for obtaining such a ruling would be followed.

This approach has a number of advantages, chief among them is that A) it does not require the establishment of any new processes; and B) it will result in consistency between the determination of status for purposes of employment benefits, and for purposes of the scholarship/fellowship exemption. Classification into either student/trainee or employee categories has been undertaken in several educational institutions already, based on the nature of

the appointment. Without this consistency, a specific PDF could be personally ruled a student/trainee rather than an employee for purposes of EI/ CPP (as in *Bekhor v M.N.R.*) and thus ruled as ineligible for parental leave benefits (a significant consideration for scientists at this stage in life), but then be denied the income tax exemption due to a global assumption that PDF in general are employees. We maintain that on simple fairness grounds, a common determination of status as being in either of these two categories is thus an important consideration.

We thank you for your attention, and hope this information may be of use to you. If you require any further information regarding postdoctoral fellows, we would be happy to provide it as part of our mandate as an organization formed to provide a national voice for postdoctoral fellows. You can contact us by e-mail at [canadianpostdoc@gmail.com](mailto:canadianpostdoc@gmail.com).

Sincerely,

**The Canadian Association of Postdoctoral Scholars**

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[1] <http://www.ncic.cancer.ca/Programs/Grants%20to%20individuals/Research%20grants.aspx>. The Canadian Institutes of Health Research have a similar statement on their website: <http://www.cihr-irsc.gc.ca/e/22340.html>