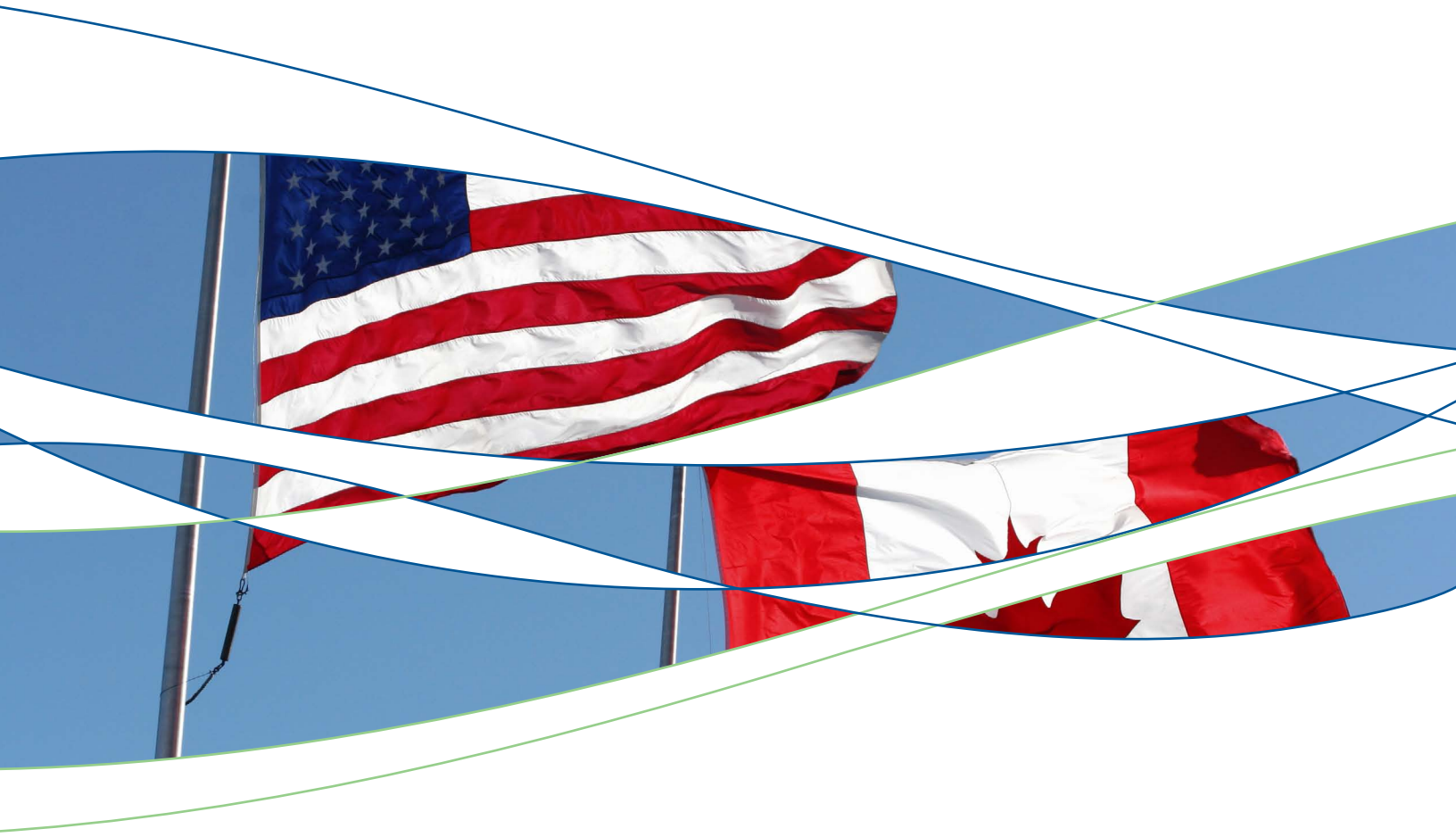

2012 CANADA-US CROSS BORDER TAX SURVIVAL GUIDE

UHY

The UHY Canada-US Tax Team (CUTT) is an active group of tax and accounting professionals with hands-on expertise in assisting clients identify and implement practical solutions to their cross-border tax and business issues.

CUTT is pleased to present this guide, which reviews a number of recent changes affecting businesses active in both the US and Canada.

I thank Abigail Kan, Chuck Sockett, Dennis Petri, Jerry Seade, Todd Bensley and Aliona Starkova for their contributions and assistance in preparing this guide.

Do not hesitate to contact any of the members listed on the last page of this document if we can be of service to you with your Canada-US cross-border issues.

Jonathan Levy

Chairperson, UHY Canada-US Tax Team
January 17, 2012

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TRANSFER PRICING

Both the Internal Revenue Service (IRS) and Canada Revenue Agency (CRA) are increasing their scrutiny of cross-border transactions between related parties. In our practice we see an increase in the number of small and medium sized businesses selected for transfer-price audits.

Our methodology is to group transfer pricing transactions in three general areas:

1. Intangible payments, such as royalties
2. Management and administration fees
3. Sale of products

Both the IRS and CRA appear to be increasing the attention given to the first two areas during their audits.

Both the IRS and CRA require companies to have transfer pricing agreements in place that follow the OECD transfer pricing guidelines. These agreements must provide support of arm's length terms and conditions (including prices), must show reasonable efforts, and must provide complete and accurate description of the transactions.

Tax authorities require that prices for related party transactions be set at the levels that would apply had they been made between arm's length persons. Penalties can be imposed if a tax adjustment is greater than 10% of gross revenues or $5 million.

Several recent transfer pricing decisions were rendered by the Canadian Federal Court of Appeal in 2010 and 2011, representing the first significant judicial pronouncements in this area for many years.

General Electric Capital Canada v. The Queen

The CRA's position has been that it is not reasonable for a subsidiary to pay fees to its parent in consideration for the parent guaranteeing the subsidiary's debt.

In General Electric, the CRA challenged the deduction of guarantee fees paid by a Canadian subsidiary to its indirect parent. The Federal Court of Appeal affirmed the Tax Court of Canada's decision in favour of the taxpayer.

The Tax Court held that implicit support derived from the related group was a relevant factor that should considered. In the circumstances under consideration, the benefit received by the Canadian subsidiary from the guarantee exceeded the amount paid by the Canadian subsidiary for the guarantee and accordingly the guarantee fees were deductible.

GlaxoSmithKline Inc. v. The Queen

The taxpayer GlaxoSmithKline packaged and sold Zantac, a patented and trademarked drug, in Canada. The CRA argued that the taxpayer paid an unreasonably high price for its purchases from a related Swiss company of the active pharmaceutical ingredient in Zantac.

The Zantac trademark and patents were owned by the taxpayer's parent, and were licensed to the taxpayer for use in Canada under a licensing agreement. Under the licensing agreement, the taxpayer was obligated to purchase the key ingredient Ranitidine from the related Swiss company. The CRA argued that in the years in question Canadian companies were able to purchase Ranitidine for a price considerably less than that paid by the taxpayer, and therefore the transfer price was not at fair market value.

On March 24, 2011 the Supreme Court of Canada granted leave to appeal the 2010 decision and the Supreme Court is expected to hear this appeal starting in January, 2012. This will be the Supreme Court's first transfer pricing cases.

FOREIGN ASSET REPORTING

FBAR (FOREIGN BANK ACCOUNT REPORTING)

US persons are required to file an FBAR form if:

- The US person had a financial interest in or signature authority over at least one financial account located outside of the United States; and
- The aggregate value of all foreign financial accounts exceeded $10,000 at any time during the calendar year to be reported.

US person means US citizens; United States residents; entities, including but not limited to, corporations, partnerships, or limited liability companies created or organized in the US or under the laws of the US; and trusts or estates formed under the laws of the US.

US Citizens or Dual Citizens Residing Outside the US

In December 2011, the IRS announced that it is aware that some taxpayers who are dual citizens of the United States and a foreign country may have failed to timely file US federal income tax returns or Reports of Foreign Bank and Financial Accounts (FBARs), despite being required to do so.

In this communication the IRS indicated that penalties for late FBAR filings will not be imposed in all cases. The IRS stated that in general taxpayers who owe no US tax will not be charged failure to file or failure to pay penalties for late filing of their tax returns. In addition, no FBAR penalty will be applied in the case of a violation that the IRS determines was due to reasonable cause.

Whether a failure to file or failure to pay is due to reasonable cause is based on a consideration of the facts and circumstances. Reasonable cause relief is generally granted by the IRS if the individual exercised ordinary business care and prudence. The IRS states that it will consider all available information, including:

- The reasons given for not meeting your tax obligations;
- Your compliance history;
- The length of time between your failure to meet your tax obligations and your subsequent compliance; and
- Circumstances beyond your control.

Reasonable cause may be established if you show that you were not aware of specific obligations to file returns or pay taxes, depending on the facts and circumstances. Among the facts and circumstances that will be considered are:

- Your education;
- Whether you have previously been subject to the tax;
- Whether you have been penalized before;
- Whether there were recent changes in the tax forms or law that you could not reasonably be expected to know; and
- The level of complexity of a tax or compliance issue.

In addition, you may have reasonable cause for noncompliance due to ignorance of the law if a reasonable and good faith effort was made to comply with the law or you were unaware of the requirement and could not reasonably be expected to know of the requirement.

FATCA (FOREIGN ACCOUNT TAX COMPLIANCE ACT)

The Foreign Account Tax Compliance Act (FATCA), was enacted in 2010 as part of the Hiring Incentives to Restore Employment (HIRE) Act.

Under FATCA, certain US taxpayers holding financial assets outside the United States must report those assets to the IRS on Form 8938 (Statement of Specified Foreign Financial Assets). In addition, FATCA will require foreign financial institutions to report directly to the IRS certain information about financial accounts held by US taxpayers, or by foreign entities in which US taxpayers hold a substantial ownership interest.

Reporting by US Taxpayers Holding Foreign Financial Assets

FATCA requires certain US taxpayers holding foreign financial assets with an aggregate value exceeding certain thresholds to report certain information about those assets on a new form (Form 8938) that must be attached to the taxpayer's annual tax return. Reporting applies for assets held in taxable years beginning after March 18, 2010. For most taxpayers this will be the 2011 tax return they file during the 2012 tax filing season.

Failure to report foreign financial assets on Form 8938 will result in a penalty of $10,000 (and a penalty up to $50,000 for continued failure after IRS notification). Further, underpayments of tax attributable to non-disclosed foreign financial assets will be subject to an additional substantial understatement penalty of 40%.

The reporting thresholds are:

- US resident:

Unmarried or Married filing Separately

on year-end	> US$50,000
highest balance:	> US$75,000

Married filing Jointly

on year-end	> US$100,000
highest balance:	> US$150,000

- Resident in foreign country:

Unmarried or Married filing Separately

on year-end	> US$200,000
highest balance:	> US$300,000

Married filing Jointly

on year-end	> US$400,000
highest balance:	> US$600,000

Reporting by Foreign Financial Institutions

FATCA will also require foreign financial institutions ("FFIs") to report directly to the IRS certain information about financial accounts held by US taxpayers, or by foreign entities in which US taxpayers hold a substantial ownership interest. To properly comply with these new reporting requirements, an FFI will have to enter into a special agreement with the IRS by June 30, 2013. Under this agreement a "participating" FFI will be obligated to:

1. Undertake certain identification and due diligence procedures with respect to its accountholders;
2. Report annually to the IRS on its accountholders who are US persons or foreign entities with substantial US ownership; and
3. Withhold and pay over to the IRS 30% of any payments of US source income, as well as gross proceeds from the sale of securities that generate US source income, made to (a) non-participating FFIs, (b) individual accountholders failing to provide sufficient information to determine whether or not they are a US person, or (c) foreign entity accountholders failing to provide sufficient information about the identity of its substantial US owners.

HYBRIDS

US LLC'S IN CANADA

In 2010 the Tax Court of Canada ruled that US Limited Liability Company's have access to protection under the US-Canada Tax Treaty (see TD Securities (USA) LLC 2010 TCC 186). Accordingly, US LLC's that paid Canadian Branch Tax at the rate of 25% should consider requesting refunds to adjust the withholdings to the preferential 5% rate under the treaty.

The implications of this ruling reach further than branch profits tax. The ruling declares that US LLC's have access to treaty benefits, and therefore these entities can apply for refunds for excess withholding taxes paid for:

- Interest (10% rather than 25%)
- Dividends (5% or 15% rather than 25%)
- Royalty payments (nil or 10% rather than 25%)
- Capital gains (possibly no withholdings required)

CANADIAN ULC'S

Beginning January 1, 2010, Canadian "hybrid" entities are not entitled to treaty benefits, and will be subject to a 25% withholding tax on cross-border payments of interest and dividends. Unlimited liability companies ("ULC's") in Canada include British Columbia, Nova Scotia and Alberta Unlimited Liability Corporations.

Note that there are techniques that may be available to avoid the denial of US Treaty benefits for certain situations.

TOWER STRUCTURES

On January 3, 2012 the Tax Court of Canada rendered the decision FLSMIDTH Ltd., v. The Queen (2012 TCC 3), which is the Court's first decision regarding "Tower Structures".

Tower structures are corporate configurations which utilize hybrid entities through which corporate groups with businesses located in both the US and Canada structure their financing such that an interest expense will be deducted in both the American and the Canadian entities. These plans, which has been called a "double dip" by some observers, take advantage of the different tax treatments which the IRS and CRA will apply to the same transaction.

In this case, the Tax Court did not rule on the double interest deduction. In fact, the Court ruled that the US tax which was deducted by the Canadian corporation further to subsection 20(12) was not deductible.

Accordingly, any Canadian corporation using a Tower Structure and claiming a section 20(12) deduction for US (or other foreign) tax should review their planning in the light of this ruling.

At this time it is not known if this decision will be appealed.

WITHHOLDING TAXES

CANADA - REGULATION 102 AND 105

Many US corporations providing services in Canada continue to struggle to comply with Regulation 102 and 105 withholding regulations.

Reg 105 of the Canadian Income Tax Act imposes a 15% withholding tax on fees, commissions or other amounts earned from services rendered in Canada by non-resident individuals and corporations. If these services are rendered in the province of Quebec, they will be subject to an additional Quebec withholding of 9%.

These amounts must be withheld by the Canadian payor even if the non-resident providing the services has no permanent establishment in Canada.

Often these withholding taxes can be recouped. The non-resident entity must file a Canadian (and Quebec) tax return at the end of the non-resident's fiscal year and claim a refund to the extent permitted on those tax returns.

US WITHHOLDING REQUIREMENTS

The IRS continues to hire new agents to audit withholdings on payments to non-residents.

Entities making payments to non-residents are required to appoint a holding agent, who is any person having the control, receipt, custody, disposal or payment of specified items of income to the extent it is gross income from US sources.

Generally, withholding taxes are reported on Forms 1042 and 1042-S and filed with the IRS on or before March 15th. In addition, the withholding agent is required to deposit amounts withheld in a US bank.

Most withholding rates are reduced by the US-Canada tax treaty. A reduction or exemption from US withholding under a Treaty is generally made by filing Form 8233 and is forwarded to the IRS within 5 days of receipt.

Withholding on US taxable income of Partnerships or LLC's - withholding is required by a partnership and LLC with effectively connected income. Forms 8805 and 8813 are used to report the withholding tax.

Interest income may be exempt from withholding tax.

REAL ESTATE

AMERICANS OWNING RENTAL PROPERTY IN CANADA

Generally, Americans owning Canadian real estate must:

- File Canadian income tax returns annually;
- Remit withholdings to the CRA on a monthly basis;
- Have withholdings of at least 25% of the gross rental income (may be reduced to 25% of the projected net income if a section 216 election is filed in advance.

Americans selling Canadian Real Estate must:

- File Canadian and provincial (where applicable) tax returns; and
- Remit withholdings of 25% (plus 12% in Quebec where applicable) on the sale proceeds within 10 days of the sale . These onerous withholdings can be reduced if a "clearance certificate" is obtained.

CANADIANS OWNING RENTAL PROPERTY IN THE US

Applies to individuals, corporations, partnerships, LLC's, trusts and estates. Canadian real estate investors generally must:

- File US tax returns annually;
- Must apply withholding tax of 10% on amount realized on disposition or sale; and
- Are exempt from withholding on a sale if the buyer acquires the US real property for use as a residence and the sale price does not exceed $300,000.

The 10% withholding is applicable to the ownership of US real property held directly by individuals, indirectly through partnerships and ownership of stock in a US corporation which is a US real property holding corporation.

Activities to watch out for:

- Dispositions of US Real Property Interest
- Application of FIRPTA (Foreign Investment in Real Property Tax Act)
- US withholding on dispositions
- How to structure ownership of US vacation properties. Often the use of trusts and partnerships can achieve significant tax savings.
- Exposure to US Estate Tax

ESTATES AND TRUSTS

US ESTATE TAX

US Estate Tax can apply to US citizens residing in Canada, and to Canadian's who own US investments at the time of death.

US estate tax rates have fluctuated greatly in recent years which has posed challenges to individuals who want to carry out estate planning. 2010 ended with a two-year extension of the 2001 tax cuts for all individual taxpayers. This legislation set out the US estate tax for 2011 and 2012, and reduces the rate of estate tax for 2011 and 2012 to 35% and sets the exemption at $5 million (or $10 million for a married couple).

The legislation also induced the following:

- For 2012, the $5 million exemption will be adjusted for inflation;
- The gift tax and the generation-skipping transfer tax exemptions are increased to $5 million; and
- A new election permits the first-to-die spouse to allocate his or her unused exemption to the surviving spouse.

At the time of writing US law states that after December 31, 2012 the estate tax rate will return to the old high rate of 55%, with a $1 million exemption. However many observers believe that these will be adjusted to more moderate levels by the US government before they become effective.

CANADIAN TRUSTS

On November 17, 2010, the long awaited decision was released by the Federal Court of Appeal ("FCA") in the "Garron Family Trust" case.

In its decision the Court supported the original Tax Court of Canada ruling that the central management and control test is the appropriate one to utilize when determining the residence of a trust for tax purposes. This ruling emphases that the residence of a trust is determined by the location of its the mind and management, rather than its legal form.

This decision has been appealed and is scheduled to be heard by the Supreme Court in March 2012.

RENOUNCING US CITIZENSHIP

EXPATRIATES

Expatriates are US citizens who relinquish their US citizenship and long-term permanent residents who surrender their green cards. The renunciation process is relatively complicated, and a total of 1,781 Americans formally renounced their US citizenship or residency in 2011 (up from 1,534 in 2010).

Taxpayers generally must file an Exit Return in the year of the renunciation, which triggers a deemed sale of their assets the day before the expatriation date at fair market value and the US tax liability on such gains is in excess of $600,000. In the case of any taxable year beginning in a calendar year after 2008, the $600,000 exclusion is indexed for inflation annually.

In general, any tax attributable to the deemed sale of property may be extended until the due date of the return for the taxable year in which such property is disposed of provided an election to defer the tax is made. An irrevocable election to defer the tax may be made, however adequate security must be provided. Generally, a bond or letter of credit are considered acceptable security interests. Interest will be charged on any deferral of tax.

Certain property deemed sold will not qualify for the election such as:

- Any deferred compensation payments
- Any specified tax deferred account
- Any interest in a nongrantor trust

Special rules apply to US withholding on deferred compensation payments.

Only "covered expatriates" are subject to these deemed sale rules. A "covered expatriate" is a person whose average annual net income for the 5 tax years ending before the date of loss of US citizenship exceeds $124,000, the person's net worth as of such date is $2 million or more. Such person must certify under penalty of perjury that he or she has met the requirements for the 5 preceding taxable years. The $124,000 is indexed for inflation for any calendar year after 2004.

A citizen shall be treated as relinquishing his or her US citizenship on the earliest of:

- Renouncing US nationality before a diplomatic or consular officer of the US pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act;
- Furnishes to the US Department of State a signed statement of voluntary relinquishment of US nationality;
- Date a court of the US cancels a naturalized citizen's certificate of naturalization.

Two exceptions to the exit-tax regime are:

- Individuals who were born with citizenship in the US and Canada, and as of the date of expatriation continue to be a citizen and tax resident of Canada, and they have not been a US resident for more than 10 taxable years during the 15-year period ending with the taxable year of expatriation;
- US citizens who renounce US citizenship before reaching the age of 18 1/2, provided that they were US resident for not more than 10 taxable years before the renunciation.

Individuals considering renouncing should note that in 1996 Congress enacted immigration legislation (the "Reed Amendment") amending the grounds of ineligibility for visas and of inadmissibility to the US. Under that section of the law, any former US citizen who officially renounced US citizenship and who is determined by the Attorney General to have renounced for the purpose of avoiding taxation by the US is inadmissible to the United States and ineligible for a visa.

MISCELLANEOUS

CHANGE IN "TAXABLE CANADIAN PROPERTY"

The 2010 Canadian budget included a set of amendments to the definition of "Taxable Canadian Property" ("TCP") which result in the elimination of reporting requirements on the disposition by non-residents of shares.

Shares of an unlisted corporation will now only be TCP if, at any time in the past 60 months more than 50% of the fair market value of the relevant share was derived from Canadian real property, including real estate, resource properties and timber properties.

Shares of a listed corporation will now only be TCP if at any time in the previous 60 months 25% or more of the shares of the corporation were owned by the taxpayer and/or non-arm's length persons, and more than 50% of the fair market value of the relevant share was derived from Canadian real property, including real estate, resource properties and timber properties.

The changes also mean that the Income Tax Act will exclude the gain from certain shares from Canadian tax, and Americans will no longer have to rely on treaty relief for an exemption from Canadian tax on the disposition of such shares.

PERMANENT ESTABLISHMENT

Effective January 1, 2010 the fifth protocol to the US Canada Tax Treaty introduced a new definition of Permanent Establishment. As a result of this change, cross border contractors will be deemed to have a permanent establishment in the other country if either:

Permanent Establishment - The Single Individual Test (for Individuals)

Services are performed by an individual who is present in the other Contracting State for more than 183 days in a 12-month period and, during this period, more than 50% of the gross active revenues of the enterprise are generated from these services; or

Permanent Establishment - The Enterprise Test (for Corporations)

Services are provided in the other Contracting State for more than 183 days in a 12-month period with respect to the same or connected project for a customer's PE in the other Contracting State.

LATE FILING PENALTIES

The Canadian Federal Court of Appeal ruled (see Exida.com Limited Liability Company v. The Queen, 2010 DTC 5101) that the penalty for late filing of a tax return was not limited to whether taxes are owing on a return. Accordingly, now a late-filing penalty on a tax return can be imposed even when no taxes may be owed. This ruling could effect:

- US entities carrying on a business in Canada through a branch; and
- US entities disposing of Taxable Canadian Property.

Generally, the maximum penalty for late filing a tax return is $2,500 per year.

SALES TAX IN ONTARIO AND BRITISH COLUMBIA

In 2011, the provinces of British Columbia and Ontario harmonized their provincial retail sales taxes with the federal Goods and Services Tax ("GST") to create a Harmonized Sales Tax ("HST"). Accordingly, the HST is now set at 12% in British Columbia and 13% in Ontario. As a result of this change, more US supplies will be subject to Canadian Sales Tax, which can include services and lease payments.

However, further to a referendum the BC government has announced plans to eliminate the HST in BC.

Accordingly, a plan has been established to guide the transition from the HST to the PST plus GST system in BC.

The PST will be reinstated at 7% with all permanent PST exemptions. The transition period is expected to extend to 2013.

Further to the 2011 introduction of the HST, there are a number of significant changes to the supplies for services, meaning the portion of the service that is performed in Canada. The rules for supplies of services are generally based on the business address of the customer. However, there are exceptions for certain services, which include:

- Personal services
- Services in relation to real property, goods or a location-specific event
- Services rendered in connection with litigation
- Customs brokerage services
- Computer-related services and internet access
- Repairs, maintenance, and photographic-related goods

There is no change to the place of supplies of real property and goods by way of sale.

A supply of real property is considered to be made in a province (and in Canada) and therefore is subject to the GST/HST rate of that province if the property is situated in the province. A supply by way of sale of good is deemed to be made in a province if the supplier (legally) delivers the property or makes it available in the province to the recipient of the supply.

US PASSIVE FOREIGN INVESTMENT CORPORATIONS ("PFIC") RULES

The 2010 Hire Act requires that each PFIC shareholder file an annual report containing any information required by the IRS for entities for tax years beginning before March 18, 2010. It is not yet clear what information will be required in the annual report. These reporting requirements are in addition to the existing requirement to complete form 8631, which is included with a shareholder's tax return.

OTHER US REPORTING ISSUES

5471 – Information Return of US Person with respect to certain foreign Corporations. Failure to file a complete and accurate Form is subject to a $10,000 civil penalty, per filing.

5472 – Information of a 25% foreign-owned US Corporation or Foreign Corporation engaged in a US trade or business. Failure to file a complete and accurate Form is subject to a $10,000 civil penalty, per filing.

FBAR-TD F 90-22.1 – Information detailing foreign bank accounts and other foreign investments. Failure to properly file the Form may be subject to a civil penalty not to exceed $10,000. Reasonable cause for failure to file may eliminate the penalty. Willful failure to file may be subject to a civil monetary penalty equal to the greater of $100,000 or 50% of the balance in the account.

Withholding - 1042, 1042-S – Failure to file the Form is subject to a $100 penalty for each filing. Failure to withhold subjects the withholding agent for personal liability for the tax and interest on the unpaid tax.

Form 1120F – Required if a foreign corporation conducts business in the US (whether or not through a US office), and its US tax was not satisfied through withholding or is claiming tax treaty benefits. Failure to file Form 1120F may result in the income of the foreign corporation to be taxed on a gross basis.

OTHER CANADIAN REPORTING ISSUES

T1134 – Foreign Affiliate Reporting: Taxpayers are required to file T1134A and T1134B information returns annually to report information regarding their foreign affiliates and controlled foreign affiliates respectively. In very general terms, a foreign affiliate is a non-resident corporation in which the taxpayer has at least 1% direct ownership and 10% indirect ownership. These returns are required to be filed no later than 15 months following the taxpayer's taxation year end. Assuming that the taxpayer is not required to file more than 50 T1134 returns, the maximum late-filing penalty with respect to T1134 returns is $1,000.

T106 – Reporting Non-Arm's Length Transactions with Non-Residents: Taxpayers are required to report their transactions with non-arm's length non-residents for each taxation year by filing a T106 information return if the combined annual amount of these transactions exceeds $1,000,000. Common reportable transactions include sales, purchases, and borrowing and repayments of loans and indebtedness. These forms are required to be filed by the filing deadline for the taxpayer's income tax return for the year. Assuming that the taxpayer is not required to file more than 50 T106 slips, the maximum late-filing penalty with respect to T106 forms is $1,000.

T1135 – Foreign Property Reporting: Canadian resident taxpayers that own foreign property with cost in excess of $100,000 at any point during a year are required to file a T1135 information return with the CRA to report certain information regarding the foreign property and income derived from the foreign property. This form is required to be filed by the taxpayer's deadline for filing its income tax return for the year. The maximum penalty for late-filing is $1,000.

T4A-NR – Payments to Non-Residents for Services Performed in Canada: Taxpayers that make payments during the calendar year to non-residents for services performed in Canada are required to file a T4A-NR information return with the CRA for the year. A T4A-NR return reports both the gross payments made to non-residents and the withholding tax remitted to the CRA with respect to these payments. The filing deadline for T4A-NR information returns is the last day of February of the following calendar year. The maximum penalty for late-filing a T4A-NR information return varies from $1,000 - $7,500 depending upon the number of T4A-NR slips required to be filed.

NR4 – Other Payments to Non-Residents: Canadian residents (for this purpose non-residents that carry on business in Canada are deemed to be Canadian residents) are required to file an annual NR4 information return to report other payments made to non-residents during the year. Common payments which are required to be reported on an NR4 return include interest, dividends, and rents. A NR4 return reports both the gross payments made and any withholding tax remitted to the CRA with respect to the payments. The filing deadline for NR4 returns is 90 days after the calendar year end. The maximum penalty for late-filing a NR4 return varies between $1,000 and $7,500 depending upon the number of NR4 slips that are required to be filed.

NR6 – Undertaking to Withhold on a Net Basis from Rental Income Paid to Non-Residents: The default Canadian income tax treatment for rents earned in Canada by non-residents is a 25% withholding tax on gross rents. Non-residents may elect to pay Canadian income tax on rental income on a net basis by filing an annual Section 216 election return with the CRA. In order to withhold on a net basis non-residents (together with their Canadian resident agents) must annually file Form NR6 with the CRA. Form NR6 is required to be filed before the first rental payment of the year and must be approved by the CRA prior to withholding on a net basis.

NR301 (new in 2011) - Declaration for Benefits under a Tax Treaty for Individual, Corporation or Trust: Must be completed by entities benefiting from treaty reduced withholding rates on dividends, interest, management fees, rents and royalties paid to or for the benefit of non-residents.

NR302 (new in 2011) - Declaration for Benefits under a Tax Treaty for a Partnership: Must be completed by entities benefiting from treaty reduced withholding rates on dividends, interest, management fees, rents and royalties paid to or for the benefit of non-residents.

NR303 (new in 2011) - Declaration for Benefits under a Tax Treaty for a Hybrid Entity: Must be completed by entities benefiting from treaty reduced withholding rates on dividends, interest, management fees, rents and royalties paid to or for the benefit of non-residents.

T2 Schedules 91 & 97 – Treaty-Exempt Income Tax Return for Non-Resident Corporations: Non-resident corporations that carry on business in Canada but do not have a permanent establishment in Canada under the applicable bilateral income tax treaty are required to file an annual corporate income tax return (T2) to report their claim for a treaty-based exemption from Canadian income tax. The filing deadline for filing a corporate income tax return is six months after the corporation's fiscal year end. The maximum penalty for late-filing a corporate income tax return is $2,500.

T5018 – Construction Industry Subcontractor Payment Reporting: Taxpayers that carry on business in the construction industry are required to annually report to the CRA payments made to subcontractors during the year by filing a T5018 information return. Taxpayers can choose to use either the calendar year or their fiscal year to report these payments. The maximum penalty for late-filing a T5018 return varies from $1,000 - $7,500 depending upon the number of T5018 slips required.

Solving your cross-border tax issues.

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