

Changes to Reporting Requirements for Foreign Investments/Income

Beginning for taxation years ending after June 30, 2013, the CRA now requires certain taxpayers to complete a new version of form T1135, the foreign income verification statement. The revised T1135 will require much more detailed information regarding disclosure of foreign property; furthermore, the CRA will extend the normal reassessment period by three years if a taxpayer fails to adequately file/complete the form in addition to assessing penalties for non-reporting, so proper compliance is integral.

While the criteria for those who must file the T1135 has not changed (*taxpayers who, at any time in the taxation year, held specified foreign property with a cost of more than \$100,000*), additional details must be disclosed besides the cost amount of the foreign investments/properties. These include:

- ✓ The name of the bank or other entity holding funds outside of Canada
- ✓ The foreign country to which the property relates
- ✓ The **maximum** (during the year) and **year-end** costs of the property
- ✓ The income/loss (if the property can be considered inventory) or gain/loss (if the property is considered capital property) from the particular property.

Specified foreign property, as defined in ss. 233.3(1) of the Income Tax Act, consists of the following:

- 1) Funds or intangible property (i.e. patents or copyrights) situated, deposited, or held outside Canada
- 2) Tangible property situated outside of Canada (i.e. real estate)
- 3) A share of the capital stock of a non-resident corporation (i.e. Apple) held by the taxpayer or by an agent on behalf of the taxpayer
- 4) An interest in a non-resident trust that was acquired for consideration, other than an interest in a non-resident trust that is a foreign affiliate for the purposes of ITA s 233.4
- 5) An interest in a partnership that holds one of the above or below mentioned “specified foreign properties” unless the partnership is required to file a T1135
- 6) An interest in, or right with respect to, a non-resident entity
- 7) A property that is convertible into, exchangeable for, or confers a right to acquire a property that is specified foreign property (i.e. share options or warrants)
- 8) A debt owed by a non-resident to the taxpayer, including government and corporate bonds, debentures, mortgages, and notes receivable
- 9) An interest in a foreign insurance policy
- 10) Precious metals, gold certificates, and futures contracts held outside Canada

Please note, however, that certain types of foreign property are **not** considered “specified foreign



property” (and hence do not need to be recorded on the T1135), as follows:

- ✓ A property used or held exclusively in carrying out an **active business**
- ✓ A share of the capital stock or indebtedness of a foreign affiliate
- ✓ An interest in an “exempt trust”, as per ITA 233.2(1)
- ✓ A personal use property (i.e., a vacation home)
- ✓ An interest in, or right to acquire, any of the above-noted **excluded** foreign property

Furthermore, another exception in regard to the requirement to file the new T1135 is if a reporting taxpayer receives a T3 or a T5 in the year from a Canadian issuer for income earned on the specified foreign property, that property can be excluded from the form. **However**, it should be noted that if the taxpayer holds foreign properties with a total cost of greater than \$100,000, and **one** of the properties does **not** have a T3/T5 issued for it (i.e. a non-dividend paying stock that had no income during the year), that specific property **would have to be included** on the T1135, even if it is held with the same brokerage that provides the taxpayer with the T3 and/or T5 for other properties that **do** provide income.

In addition, please note that the following taxpayers do **not** have to file a T1135

- 1) A mutual fund corporation or mutual fund trust
- 2) A non-resident owned investment corporation
- 3) A person all of whose taxable income is exempt from Part I tax
- 4) A registered investment under s 204.4 of the Act (i.e., an RRSP)
- 5) A trust described in paragraphs a to e.1 of the definition of trust in ITA 108(1) (i.e., an inter vivos trust existing in respect of a religious congregation)
- 6) A trust in which all of the beneficiaries are exempt persons described above
- 7) A partnership in which all of the members are exempt persons described above
- 8) A partnership where the share of the partnership’s income or loss attributable to non-resident members is 90% or more of the income or loss of the partnership

If you have any questions regarding the new T1135 or seek further clarification, please do not hesitate to contact us.