Tax Topics

April 19, 2018
Number 2406

SUBPART F INCOME EARNED BY CANADIAN CORPORATIONS AFTER US TAX REFORM

— *Max Reed*[1]

On December 22, 2017, the US enacted the most sweeping tax changes in thirty years. While the changes are numerous, one of the results is that US citizens who own stock in Canadian Controlled Private Corporations ("CCPCs") should no longer have any Subpart F tax exposure on passive income earned through a CCPC, because of the high tax exclusion for Subpart F income.

Briefly, US citizens who are the owners of foreign corporations, which includes CCPCs, are required to include in their annual US taxable income the Subpart F income of a controlled foreign corporation ("CFC") in which they have 10% or more ownership by vote or value. In turn, passive income (interest, dividends, and capital gains from the sale of assets which earn passive income), is normally considered Subpart F income. This results in both a potential loss of deferral and a double tax risk. However, there is a key exception from Subpart F income for income that is subject to a minimum amount of Canadian tax. Income that would normally be classified as Subpart F income is exempted from this classification if the corporation pays tax on its income to the country where the CFC operates at a rate of at least 90% of the US federal corporate tax rate. The technical term for this is the high tax exclusion, and it is found in section 954(b)(4) of the Internal Revenue Code.[2]

With the reduction of the US federal corporate tax rate to 21%, the 90% threshold is now reduced to an 18.9% rate. That means that passive income earned by a CCPC, which is subject to tax at a higher rate than this, will not be considered Subpart F income. The effect of this is that US citizens that own CCPCs that earn passive income should no longer have any Subpart F risk. Below, I argue that the 18.9% rate is determined prior to the calculation of any RDTOH or Canadian refundable tax. Thus, all investment income earned by a CCPC should be excludible under the high tax exclusion since it is all subject to Canadian tax at a rate higher than 18.9%. Such an approach would minimize the consequences of operating through a CFC and may help achieve a measure of tax deferral for US citizens in Canada.

To start out, I survey the CFC regime as it was updated by the Tax Cuts and Jobs Act. Then I briefly explain how investment income earned by a CCPC is taxed and how the RDTOH functions. RDTOH, I argue, does not need to be taken into account in determining the effective Canadian corporate tax rate paid by a CCPC for the purposes of the high tax exclusion. The result of this is that most US citizens in Canada should not have any Subpart F income exposure on passive income earned by CCPCs.

---

[1] Max Reed is a US and Canadian tax lawyer at SKL Tax, a boutique US and Canadian tax advisory firm in Vancouver, Canada (www.skltax.com). Prior to joining SKL he was a US tax lawyer at White & Case in New York and clerked for Justice Karen Sharlow of the Canadian Federal Court of Appeal where he focused on Canadian tax law. He holds a BA and two law degrees from McGill University. He can be reached at max@skltax.com. The author would like to thank Josh Harnett and Tim Barrett for their comments on this article. All errors remain the author's.

[2] United States Internal Revenue Code of 1986, as amended (the "Code").

Wolters Kluwer

1. Overview of the CFC Regime as Updated by the Tax Cuts and Jobs Act

A CCPC will be classified as a CFC for US tax purposes if more than 50% of the voting power or value of stock is owned by "US shareholders".[3] A "US shareholder" is defined as a US person who owns 10% or more (directly or indirectly) of the combined voting power of all classes of voting stock in the corporation or the total value of the corporation.[4] The definition of a US person includes US citizens and residents, US corporations, US trusts, and US partnerships.

Generally, the adverse US federal income tax consequences of owning stock in a CFC are as follows. First, if the corporation has been a CFC at any time during a taxable year, the 10%-or-more US shareholders of the CFC would recognize deemed income in an amount equal to such shareholder's *pro rata* share of the CFC's "Subpart F Income" and to the extent of any investments of the CFC in US property, limited to the current earnings and profits of the CFC.[5] The definition of Subpart F Income is complicated and includes various items;[6] the one of primary relevance here is foreign base company income, which in turn includes foreign personal holding company income.[7] This means that as a starting point, Subpart F income includes income from dividends, interest, rents, royalties,[8] capital gains, commodities transactions, net foreign currency gains, and income from notional principal contracts and certain personal service contracts.[9] More generally, foreign base company income also includes income from:

(a) the sale of certain property purchased from a related person;

(b) the sale of personal property to, or on behalf of, a related person; or

(c) the purchase of personal property on behalf of a related person, where the property is (i) manufactured, produced, grown, or extracted outside the country in which the CFC is organized, and (ii) sold or purchased, as the case may be, for use, consumption, or disposition outside such non-US country.[10]

Finally, foreign base company income also includes income derived in connection with the performance of technical, managerial, engineering, architectural, scientific, skilled, industrial, commercial, or like services which are performed (A) for or on behalf of a related person, and (B) outside the country in which the CFC is organized.[11]

2. How investment income earned by CCPCs is taxed in Canada

CCPCs pay Canadian corporate tax ranging from 50–55% on passive income from property, including interest and dividend income from non-Canadian sources, rental income, and royalty income without reference to the refundable tax generated. On income from taxable capital gains, the effective tax rate is in the 23–26% range without reference to the refundable tax generated. Dividends from Canadian sources are taxed at the corporate level at a rate of 38.33%. The rate will differ according to the province that the CCPC operates in. Overly simplified, this rate is reduced by a refundable tax when a taxable dividend is paid out to the individual shareholder. A full discussion of the mechanics of the refundable tax is available elsewhere, and the 2018 federal budget changed basic elements of that refundable tax. But the basic point remains that, without considering the refundable tax, the Canadian corporate tax rate on passive income earned by a CCPC is greater than 18.9%. This is why it will benefit from the high tax exclusion and not be considered Subpart F income. This is discussed in the next section below.

3. The high tax exclusion

The high tax exclusion is significant because if a CFC earns income which would normally constitute Subpart F income, as defined above, but pays foreign corporate tax at a rate equal to or greater than 90% of the highest US corporate tax rate (currently 21%) on that item of income, then that item of income is excluded from Subpart F income.[12] Put

[3] *Id*.

[4] Code section 951(b).

[5] Code section 951.

[6] Other items of Subpart F income include: certain insurance income, income from boycott operations, illegal payments to foreign government, and other income earned in specific countries.

[7] Code section 954(a).

[8] Dividends, interest, rents, and royalty payments received by a CFC from a related CFC (one that owns 50 per cent or more of stock by vote or value) are excluded from foreign personal holding company income (and, therefore, foreign base company income), provided that the payments are attributable and allocable to neither Subpart F Income nor income that is effectively connected to a US trade or business. Code section 954(c)(6); Treas. Reg. 1.954-1(f).

[9] Code section 954(c).

[10] Code section 954(d).

[11] Code section 954(e).

[12] Code Section 954(b)(4).

differently, with the reduced US corporate tax rate, when the effective foreign tax rate is 18.9% or higher for a particular item of income it can be excluded from Subpart F income. Since CCPCs pay Canadian corporate tax ranging from 50–55%% on most passive income, and on capital gain income, the effective tax rate is in the 23–26% range without reference to the refundable tax generated, it seems intuitive that it would be excludable from Subpart F income using the high tax exclusion. However, Code section 954(b)(4) requires that the "effective rate of income tax" be used to determine whether an item of income earned by a CFC is excludable from Subpart F using the high tax exclusion. The question then becomes: must the dividend refund that is generated when a CCPC pays tax on investment income be taken into account when determining the effective tax rate paid by the CFC for the purposes of the high tax exclusion?

My answer is no: the dividend refund likely does not have to be taken into account to determine the applicability of the high tax exclusion to investment income earned by a CCPC. There are a number of steps required to arrive at this conclusion. At the outset, it is worth pointing out that if a CCPC uses a dividend refund (or another type of credit) to push its Canadian corporate tax rate below 18.9% then this strategy does not work. It only works if the dividend refund is banked for future years and the effective Canadian corporate tax rate remains at least 18.9% on an item of income.

To start out, examine what constitutes an item of income for the purposes of the high tax exclusion. The term "item of income" is defined quite specifically.[13] The definition depends on what type of income it is. If the income in question is foreign personal holding company income (discussed in section 1 of this article), then the definition of what constitutes an "item of income" for the purposes of the high tax exclusion has two elements.

(1) The income has to fall into a single grouping under the rules set out in § 1.904-4(c)(3), (4) and (5).

(2) The income must also fall into one single category of those set out in paragraphs (*i*) through (*v*) of Reg § 1.954-1(c)(1)(iii) (A)(*1*).[14]

Take each aspect of the definition in turn. The rules under Reg § 1.904-4(c)(3) group items of income according to the amount and type of Canadian tax that will be imposed on them. No investment income earned by a CCPC will be subject to Canadian withholding tax, but it will be subject to Canadian corporate tax.[15] As such, all investment income earned by a CFC in Canada will be under the same category for the purposes of § 1.904-4(c). Thus, it is the categories set out in paragraphs (*i*) through (*v*) of Reg § 1.954-1(c)(1)(iii) (A)(*1*) that will determine how an item of income is defined. Dividend, interest, rent, royalty, and annuity income from passive sources is lumped together for the purposes of calculating the high tax exclusion. Similarly, gains from the sale of property that produces passive income is a separate category. In sum, to figure the "effective rate of income tax" for the purposes of a CCPC, all passive income save for capital gains is grouped into one category and capital gains generated by the sale of assets that generate passive income is grouped into another. Note that capital gain income generated by the sale of assets which do not produce passive income is not classified as Subpart F income to begin with and as such is not germane to this discussion.

Next, consider the time period in which the determination of the effective tax rate takes place. For the purposes of figuring the high tax exclusion, the effective tax rate is analyzed with respect to the "taxable year of the controlled foreign corporation."[16] Arguably, when an analysis is performed with respect to the CFC's tax year, the consequences in a future tax year are irrelevant.

Last, the Treasury Regulations provide guidance that a future tax refund is to be ignored in determining the effective rate of tax for the purposes of examining the applicability of the high tax exclusion. According to Reg § 1.954-1(d)(2), the effective tax rate for a particular item of income is determined under Reg § 1.954-1(d)(3). In turn, Reg § 1.954-1(d)(3)(i) defines how the effective tax rate for Subpart F income that is not passive foreign personal holding company income should be determined. Reg § 1.954-1(d)(3)(i) states that future reductions in tax due to a distribution to shareholders should not be taken into account for the purposes of calculating the effective tax rate for the high tax exclusion.

While the universe of Subpart F income that does not include passive foreign personal holding company income may not be large (or at all interesting for the purposes of this analysis), this provision explicitly states that a future reduction in foreign taxes due to a distribution to shareholders will not impact the assessment of a CFC's effective tax rate for the purposes of the high tax exclusion. A dividend refund is a future reduction in Canadian (foreign) taxes that is only attributable to a distribution of income to shareholders. When combined with the general proposition under Reg § 1.954-1(d)(1)(ii) that the analysis is conducted with respect to the current tax year of the corporation, there is a

[13] Reg § 1.954-1(c)(1)(iii).

[14] Reg § 1.954-1(c)(1)(iii)(B).

[15] Reg § 1.904-4(c)(3)(iv).

[16] Reg § 1.954-1(d)(1).

good argument to be made that future dividend refunds should not be taken into account for the determination of the effective tax rate paid by a CFC on income other than foreign personal holding company income. Still, it remains important for establishing the context of how the Treasury Regulations deal with calculating the effective tax rate when the tax rate will be reduced by future distributions to shareholders.

Dividend refunds also do not need to be used in establishing the effective tax rate for an item of income that is foreign personal holding company income. The route to arrive at this conclusion is longer than it is for items of income which are not foreign personal holding company income. Recall that foreign personal holding company income includes income from dividends, interest, rents, royalties, capital gains (from the sale of assets that produce passive income), commodities transactions, net foreign currency gains, and income from notional principal contracts and certain personal service contracts.[17] The definition of effective tax rate for the purposes of the high tax exclusion for foreign personal holding company income is set out in Reg § 1.954-1(d)(3)(ii). In turn, Reg § 1.954-1(d)(3)(ii) simply outsources the task of establishing the effective tax rate to the regulations under § 1.904-4(c) (foreign tax credits for passive income).

An analysis of the rules under § 1.904-4(c) reveals that the dividend refund generated for future use should not be included in the calculation of the effective tax rate for the purposes of the high tax exclusion. Reg 1.904-4(c)(6)(i) states that the determination of whether income is high-taxed or not is made "in the taxable year the income is included in the gross income of the US shareholder". This is parallel to Reg § 1.954-1(d)(1) (the general rule which is applicable to the entire high tax exclusion section), and suggests that reductions of tax in future tax years should not be incorporated into the analysis of the effective tax rate for the purposes of section 954(b)(4).

Similarly, Reg § 1.904-4(c)(7)(i) mirrors the text of Reg § 1.954-1(d)(3)(i), which is used to establish the effective tax rate for Subpart F income which is not foreign personal holding company income. Reg § 1.904-4(c)(7)(i) states that a future reduction of tax due to a distribution of dividends is not taken into account to determine the effective tax rate for the purposes of the high tax exclusion.

Finally, Reg § 1.904-4(c)(7)(iii) clarifies the relationship between Reg § 1.904-4(c) and the determination of the effective tax rate for the purposes of the high tax exclusion under section 954(b)(4). It holds that the rules under 954(b)(4) shall be applied without regard to the subsequent reduction of foreign tax. In other words, for the purposes of determining the applicability of the high tax exclusion, the rules under Reg § 1.904-4(c) ignore a future reduction in foreign tax. This is a divergence from the way that the rules under Reg § 1.904-4(c) are applied to the determination of foreign tax credits. Examples 6 & 7 under the § 1.904-4 regulations illustrate this point.

In example 6, the taxpayer has to re-determine its *foreign tax credits* because of a subsequent reduction in tax due to a dividend that was paid out. Tax that is refundable is generally not available as a foreign tax credit.[18] Example 6 does not, however, deal with an election to use the high tax exclusion. Further, Reg § 1.904-4(c)(7)(iii) differentiates the analysis under the Reg § 1.904-4 rules between their application for foreign tax credit purposes and their application for the purposes of the high tax exclusion. This distinction is confirmed in example 7. In example 7, the taxpayer is able to apply the high tax exclusion to exclude the passive income from categorization as Subpart F income even though that passive income was ineligible for use for foreign tax credit purposes.

In sum, as long as the tax rate, excluding a future reduction in tax generated by dividend refunds, for passive income earned by a CCPC exceeds 18.9% in the current tax year, this income can escape classification as Subpart F income.

4. Conclusion

Subpart F income can be an expensive proposition. It robs the dual citizen of tax deferral that they would otherwise enjoy on investment income. The high tax exclusion can be used to exclude dividend, interest, and royalty income generated by a CCPC from Subpart F classification as long as that income is subject to Canadian corporate tax above 18.9% without reference to the refundable credit generated. But with these caveats, some of the worst effects of the Subpart F regime can be mitigated.

CURRENT ITEMS OF INTEREST

Saskatchewan Budget — The Highlights

Saskatchewan's 2018–19 Budget: On Track was presented on April 10, 2018 by Finance Minister Donna Harpauer. Budget 2018 projects a deficit of $365 million for this year with a return to balance projected for 2019–2020. The tax highlights from the Budget include:

[17] Code Section § 954(c).

[18] Reg. 1.901- 2(e)(2)(i).

- the previously-announced half-point reduction (to occur on July 1, 2019) to personal tax rates has been temporarily deferred with no future date ;
- a new Saskatchewan Value-Added Agriculture Incentive, which provides value-added agriculture facilities a 15% non-refundable tax credit for capital investments in a new or expanded productive capacity of at least $10 million;
- a new Saskatchewan Technology Start-up Incentive, which will offer a 45% non-refundable tax credit for individual and corporate equity investments in eligible technology start-up businesses;
- the dividend tax credit rate for non-eligible dividends will be 3.333% for 2018 and 3.362% for 2019 and subsequent years;
- unlike the federal government, the province will not consolidate its caregiver credits, so the caregiver and infirm dependant tax credits will be separately maintained.

Government Expands Eligibility for Child Benefits

On April 13, 2018, the federal government announced that the *Income Tax Act* will be amended to clarify eligibility for the Canada Child Benefit ("CCB"). Specifically, the CCB will be available to individuals caring for a child under provincial/territorial kinship arrangements, such as the Prince Edward Island Grandparents and Care Providers program. Eligibility will not be affected by any financial assistance received from such a program.

RECENT CASES

Appeal from imposition of penalties for gross negligence dismissed

The taxpayer's return for the 2009 taxation year had been prepared by the tax return preparation group Fiscal Arbitrators, which charged a fee equal to 20% of the total tax refund of $84,565. That return included a false claim for business losses and resulting loss carrybacks. Those claims were denied by the Minister on reassesssment, and penalties for gross negligence were imposed. The taxpayer appealed from the reassessment on the issue of the penalties.

The appeal was dismissed. The Tax Court of Canada held that in order to justify a penalty for gross negligence, the Minister was required to show, on a balance of probabilities, both that a false statement or omission was made in the appellant's return and that such false statement or omission was made by the appellant either knowingly or in circumstances amounting to gross negligence. The Court held that the evidence before it established that a false statement had been made in the return and in the loss carryback request, and that conclusion was not disputed by the appellant. The question for determination, therefore, was whether such false statement had been made knowingly or in circumstances amounting to gross negligence. The Court reviewed the information set out in the return and the circumstances in which it was signed by the appellant and concluded that there were a number of warning signs, including the "manifestly extraordinary tax result" and "exorbitant fee based on the tax refund", that should have alerted a person in the appellant's position of the need to make further inquiries or seek independent verification. The Court held that the conduct of the appellant in signing and filing the return without reviewing it or making such inquiries was a marked and substantial departure from the conduct expected of a reasonable person in the same circumstances. The appellant's argument that he had relied on his tax preparer was not sustainable, where the materials provided by that tax preparer were so obviously "wrong, deficient and nonsensical" and when the tax result obtained was so "extraordinary and suspicious". The appellant's conduct in the circumstances constituted gross negligence, for which penalties were properly imposed.

¶49,909, *Peck v. The Queen*, 2018 DTC 1043

Applicant provided with award of substantial indemnity costs for post-settlement offer period

The applicant had appealed from assessments with respect to the 2004, 2005, and 2006 taxation years. His appeal to the Tax Court of Canada was successful and the Minister appealed from that decision. The taxpayer then brought a motion before the Tax Court seeking costs in excess of Tariff. The Tax Court held that it was required to first determine whether the taxpayer should be provided with an extension of time to bring such motion beyond the 30 day time limit set out in Rule 147. If such extension was granted, the Court was then required to determine whether an award of costs should be provided as requested.

The motion was allowed in part. The Court first considered the application for an extension of time for the motion. It reviewed the factors set out in the jurisprudence with respect to when such an application should be allowed, including the continuing intention to take proceedings within the prescribed time limits, the existence of an arguable case, the cause and actual length of the delay (or a reasonable explanation provided for such delay), and, finally, whether there was any prejudice caused by the delay. It held that in the circumstances the delays were relatively short and were unlikely to have prejudiced the respondent. The Court concluded therefore it was appropriate for it to exercise its discretion to grant an extension of time for the application. The Court then considered the quantum of costs which should be allowed. It noted that the factors to be considered in making that determination, as set out in section 147 of the *Tax Court of Canada Rules*, included the result of the proceeding, the amounts in issue, the importance, volume and complexity of the issues, any offer of settlement made in writing, the conduct of the parties, and the extent to which the use of expert testimony was justified. The Court noted in particular that the judgment provided to the applicant was at least as favourable as a valid settlement offer which he had made and which could have been accepted by the respondent, giving the applicant a presumptive right to substantial indemnity costs. Taking all of those factors into consideration, the Court concluded that the applicant was entitled to substantial indemnity costs in the amount requested for the period subsequent to the making of that settlement offer in January 2016, and a lump sum costs award for the pre-settlement offer period.

¶49,910, *MacDonald v. The Queen*, 2018 DTC 1044

Application for judicial review of pending decision dismissed as premature

The non-resident taxpayer was an employee of IBM Canada. He received a T4 for the 2014 tax year which showed $553,480 in income and income tax deducted at source of $205,469. IBM later issued an amended T4 which indicated $923 in income but continued to reflect the amount of income tax withheld at source to be $205,469. On assessment, the Canada Revenue Agency determined both the income for the year and the tax deducted at source to be nil, as it was unable to verify the amended T4. In 2016 the taxpayer filed a Notice of Objection for the 2014 tax year and in 2017 he filed a request, under section 164(1)(*b*) of the *Income Tax Act* for a refund of the tax amount of $205,469. An Appeals Officer indicated in a letter to the taxpayer that no decision could be made on the Notice of Objection until a payroll audit of IBM Canada had been carried out, and that a decision to allow or disallow the objection would be made once that payroll audit was completed, and based on the results of that audit. The taxpayer applied for judicial review of that decision, seeking a declaration that the CRA had erred in its decision and an order of mandamus.

The application was dismissed. The Federal Court of Canada held that the issue for determination was whether the application for judicial review was premature. It held that the Appeals Officer was required by section 164 of the *Income Tax Act* to act with "all due dispatch" and that she had met that requirement. The Appeals Officer was required to exercise due diligence to determine who was entitled to the refund amount and the payroll audit was, in the Court's view, necessary to making that determination. The Court concluded that the delay associated with completing an audit was not an exceptional circumstance that would require intervention by the Court in the Minister's ongoing administrative process. The decision of the Appeals Officer was not a final determination. Rather, it indicated that a decision was pending the outcome of a final investigation. The application for judicial review was therefore premature, and it was dismissed.

¶49,912, *Madore v. Canada (AG)*, 2018 DTC 5031

INTERNATIONAL NEWS

US Taxpayers Owe US$25 Billion in Cryptocurrency Taxes

This article originally appeared in Wolters Kluwer's Global Tax Weekly Issue 283.

The total capital gains tax liability of US taxpayers this year from trading in cryptocurrencies such as Bitcoin could reach US$25 billion, according to research firm Fundstrat.

In a newly published report, Fundstrat based its prediction on the premise that just over half of US households typically realize capital gains in any given tax year. If so, the firm expects that US investors will owe about US$25 billion for the 2017 tax year following last year's surge in currency values.

Fundstrat predicts that gains from cryptocurrencies will account for about 20 per cent of total capital gains tax revenues this year. The company also thinks that the realization of cryptocurrency gains ahead of this year's tax filing deadline could exert downward pressure on the price of Bitcoin.

Under guidance issued by the Internal Revenue Service in 2014 in Notice 2014-21, virtual currency is treated as property for US federal tax purposes. General tax principles that apply to property transactions apply to transactions using virtual currency.

Among other things, this means that:

- A payment made using virtual currency is subject to information reporting to the same extent as any other payment made in property.
- Payments using virtual currency made to independent contractors and other service providers are taxable, and self-employment tax rules generally apply. Normally, payers must issue Form 1099-MISC.
- Wages paid to employees using virtual currency are taxable to the employee, must be reported by an employer on a Form W-2, and are subject to federal income tax withholding and payroll taxes.
- Certain third parties who settle payments made in virtual currency on behalf of merchants that accept virtual currency from their customers are required to report payments to those merchants on Form 1099-K, Payment Card and Third Party Network Transactions.
- The character of gain or loss from the sale or exchange of virtual currency depends on whether the virtual currency is a capital asset in the hands of the taxpayer.

Last month, the IRS warned taxpayers that they must report income from virtual currency transactions in their income tax returns.

“Taxpayers who do not properly report the income tax consequences of virtual currency transactions can be audited for those transactions and, when appropriate, can be liable for penalties and interest,” the agency said.

“In more extreme situations, taxpayers could be subject to criminal prosecution for failing to properly report the income tax consequences of virtual currency transactions,” it added.

US Firms To Reinvest Tax Cut Windfall: Survey

This article originally appeared in Wolters Kluwer’s Global Tax Weekly Issue 283.

The majority of companies responding to a survey by Deloitte in the United States expect to repatriate money to invest domestically following the introduction of tax reforms.

Almost half (46 per cent) of the Chief Financial Officers taking part in the Deloitte’s CFO Signal survey for the first quarter of 2018 said that they expect to see higher investment in US operations following the passage of the Tax Cuts and Jobs Act, with the same percentage replying that they plan to accelerate the repatriation of foreign earnings.

According to the survey, 93 per cent of companies expect to use repatriated funds to invest in their core business, with 82 per cent likely to use them to also start new businesses. More than three quarters (77 per cent) of respondents plan to use repatriated funds to invest in research and development and innovation.

As a direct result of tax reform, 31 per cent of CFOs expect to increase domestic hiring and 38 per cent anticipate raising wages. With regard to using repatriated cash, 55 per cent expect to use it to hire new employees, 43 per cent to raise wages, and 23 per cent to pay one-time bonuses.

“CFOs continue to be strongly optimistic this quarter, and confidence appears to be further bolstered by the passage of tax reform in the US. And for those companies that expect repatriated earnings, investment is far and away CFOs’ top expected use for the windfall,” explained Sanford Cockrell, National Managing Partner of the US CFO Program, Deloitte LLP.

Greg Dickinson, Managing Director, Deloitte LLP, who leads the North American CFO Signals survey, added: “Tax reform was intended to increase companies’ domestic investment, hiring and pay, and CFOs’ survey responses seem to indicate that the new tax law will aid all of these to a very substantial extent.”

OECD Releases New CRS Tax Transparency Standard Handbook

This article originally appeared in Wolters Kluwer’s Global Tax Weekly Issue 283.

On April 5 the OECD released a new edition of the Common Reporting Standard (“CRS”) Implementation Handbook and announced that a number of territories have agreed relationships with others to automatically exchange tax information, including Panama.

The CRS is the new standard that replaced exchange of information between countries on request with an automatic obligation to share information on foreign taxpayers to the state that they are tax resident in, to tackle aggressive tax avoidance, evasion, and fraud.

The Handbook provides practical guidance to assist government officials and financial institutions in the implementation of the CRS and to provide a practical overview of the CRS to both the financial sector and the public at large.

Changes reflected in this second edition of the Handbook offer further guidance on the features of the legal framework of the CRS, data protection aspects, and IT and administrative requirements as well as on measures to ensure compliance with the CRS. It also expands the trust section in relation to the identification of Controlling Persons and includes all frequently asked questions in relation to the CRS that have so far been issued by the OECD.

In total, there are now over 2,700 bilateral relationships for the automatic exchange of off-shore financial account information under the CRS in place across the globe.

TAX TOPICS

Published weekly by Wolters Kluwer Canada Limited. For subscription information, see your Wolters Kluwer Account Manager or call 1-800-268-4522.

For Wolters Kluwer Canada Limited

Tara Isard, Senior Manager, Content
Tax & Accounting Canada
(416) 224-2224 ext. 6408
email: Tara.Isard@wolterskluwer.com

Natasha Menon, Senior Research Product Manager
Tax & Accounting Canada
(416) 224-2224 ext. 6360
email: Natasha.Menon@wolterskluwer.com

Wolters Kluwer Canada Limited
300-90 Sheppard Avenue East
Toronto ON M2N 6X1
1 800 268 4522 tel
1 800 461 4131 fax
www.wolterskluwer.ca