

MONTHLY NEWSLETTER

Foreign Income Verification Statement (Form T1135)



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DECEMBER 2014

Our goal is to provide updates on topical tax issues. Information contained in the newsletters is not meant to be a comprehensive summary of the issues raised. Rather, we wish to bring what we believe to be important issues to the attention of our valued clients. We would be pleased to discuss any questions that you, the reader, might have in greater detail.

BACKGROUND

In recent years, there have been increased measures implemented to ensure that Canadian taxpayers are disclosing and reporting international investment income. As the federal government focuses on reducing the national deficit, there is increased motivation to ensure that Canadian taxpayers are paying tax on their worldwide income, including income from investments held offshore. This reporting requirement is applicable for all Canadian taxpayers, including individuals, corporations, trusts, and partnerships.

FORM T1135 – FOREIGN INCOME VERIFICATION STATEMENT

Form T1135 - Foreign Income Verification Statement is required to be filed by Canadian taxpayers who hold *specified foreign property* with a cumulative cost in excess of \$100,000 (Canadian) **at any time during the year**. Specified foreign property includes the following;

- Funds held outside Canada
- Shares of non-resident corporations
- Indebtedness owed by non-residents
- Interest in certain non-resident trusts
- Real property situated outside Canada (other than personal use property and real property used in active business)
- Other types of foreign property such as intangible property not used in business and certain rights under contract
- **NEW** - Property held in an account with a Canadian registered securities dealer or a Canadian trust company

It should be noted that specific exclusion exist where filing is not required, most commonly, personal-use property, property used or held exclusively in carrying on an active business, and a share of capital stock of a foreign affiliate.

While the form is not a new requirement, it has undergone an evolution throughout 2013 and 2014. The initial changes imposed in 2013 required extremely detailed foreign reporting for all taxation years after June 30, 2013. As a method of relief, the Canada Revenue Agency (“CRA”) extended the T1135 filing deadline for all tax payers to July 31, 2014 for the first tax years ended after June 2013.

In order to address taxpayers concerns regarding the onerous reporting requirements, the CRA announced on February 26, 2014 that for the 2013 taxation year, a one year “Transitional Method” would be available to taxpayers. This relief allowed taxpayers who held specified foreign property in an account with a Canadian registered securities dealer to report the aggregate value of the property held in the account, rather than reporting the details of each property. As this information is generally readily available on statements issued by investment advisors, the task of completing the form was simplified using this method.

At the CRA’s Tax Practitioner’s Spring Seminar, the representatives indicated that they were currently considering whether this method would become the new standard. Only July 8, 2014, the following changes to the T1135 were announced;

- (1) The Aggregate Method (similar to the “Transitional Method” in 2013) will be available such that where a taxpayer holds the specified foreign property with a Canadian registered securities dealer or Canadian trust company, the taxpayer will have the option to report the aggregate value of all such property, but on a country by country basis. The amounts to be reported will include;
 - a. The highest fair market value at the end of the any month during the year
 - b. The fair market value at the end of the year
 - c. The aggregate income (loss) earned in the year
 - d. The gain (loss) realized from all dispositions during the year

This aggregate reporting will be reported at Category 7 on the T1135 – “Property held in an account with a Canadian registered securities dealer or a Canadian trust company”

- (2) The reporting exception that excludes certain property where a T3 or T5 slip was issued from a Canadian issuer was eliminated. This exception is no longer available.

It is important to note that all other specified foreign property must still be reported using the regular method. This would include all specified foreign property not described above. For example, if a Canadian taxpayer owns multiple rental properties in the United States and the aggregate cost basis of the property exceeded \$100,000 at any time during the year, the taxpayer would be required to file a T1135 form, reporting the detailed information required by the T1135. The Aggregate Method would not be available.

DUE DATE AND PENALTIES

The T1135 form must be filed with the CRA by the income tax filing deadline for the particular year. For the majority of personal taxpayers, the filing deadline is April 30, with the exception of self-employed individuals whose deadline is extended until June 15. Corporate taxpayer's returns are due 6 months following the fiscal year end.

The penalty for non-compliance can be extremely punitive. There is a penalty of \$25 per day to a maximum of \$2,500 per year, for each year that a taxpayer is non-compliant. Currently, this form cannot be electronically filed and must be signed and sent to the CRA in paper form.

ONGOING CONSIDERATIONS

The Canada Revenue Agency has commented that they will continue to work on system updates that would allow the form to be electronically filed and extending the normal reassessment period of the tax return.

CONCLUSION

If you have any questions regarding the filing requirements, exceptions or ongoing discussion regarding foreign reporting, please contact our office. If you believe that you may have been required to report a T1135 form in the past, you may want to consider filing a voluntary disclosure.

About the Authors:

Jacob Milosek, CPA, CA and Jennifer Dawe, CPA, CA have each worked for Hendry Warren LLP for over 6 years. Both have completed the CICA's In-Depth Tax Course and work exclusively in the firm's tax department. They provide a wide variety of taxation related services across of a breadth of tax topics.