T1135: 2013 Transitional Relief Is Permanent



In our blog “T1135 transitional guidance” we reported that the Canada Revenue Agency (“CRA”) developed transitioning rules which were welcomed relief to taxpayers but applied only to the 2013 tax year reporting period.

On July 8, 2014 the CRA announced that these T1135 transitioning rules will become permanent for 2014 and thereafter, but there are a few significant twists:

1. **Availability of the “aggregate reporting method”:** the “aggregate reporting method” will be available only to property held in accounts of Canadian registered security dealers and federally or provincially regulated trust companies.
2. **T3/T5 exception:** most notably, the CRA eliminated the transitional exception for income earned in the Canadian registered securities dealers’ account that has been reported on T3/T5 slips. The previous transitional Form T1135 provided a reporting exclusion if the taxpayer received a T3 or T5 slip from a Canadian issuer in respect of a particular specified foreign property. However, if the taxpayer owned a specified foreign property held by a Canadian registered securities dealer, and no T3 or T5 was issued (as the property did not earn any income), the taxpayer would still have been subject to the expanded reporting requirements. This exception was confusing and generated a large amount of criticism from the accounting community. For 2014 and thereafter, all income will have to be reported regardless of whether T3/T5 slips have been issued. On the one hand, elimination of this exception will reduce uncertainty in preparing the form; however many practitioners were hoping for a simple broad-based exemption for any investments held in a Canadian registered security dealers account since their brokers are already required to disclose any such investment income to the CRA annually.
3. **Fair market value (“FMV”) by country:** for investments that qualify for the “aggregate reporting method”, taxpayers may choose only to report total securities by country for each account held with Canadian registered securities dealers and Canadian trust companies. The amounts to be reported will be the total highest month-end FMV for the year and the total FMV at the end of the year (all on a country by country basis). This is a welcomed relief as monthly and year-end cost amounts may not be readily available on most monthly investment statements.
4. **Income and gain by country:** the CRA is unwilling to budge on reporting of income and gain on a country-by-country basis for reporting under the “aggregate

reporting method". Therefore for each investment account that qualifies for the "aggregate reporting method", the taxpayer will be required to report the total income and gain by country. Since securities dealers do not always have full information about tax cost, taxpayers should not rely solely on gain or loss amounts shown on dealers' statements.

5. **Filing deadlines:** CRA will accept the 2013 version of the T1135 Form for the 2014 tax year for taxpayers who file their forms prior to July 31, 2014. T1135 Forms filed after July 31, 2014 will have to use the new T1135 Form. The due date for the 2013 and 2014 versions of the T1135 Form will be due on the tax return filing due date.

It is heartening to practitioners that CRA is listening to the professional community. The permanent implementation of the aggregate reporting process is welcome news. However with the elimination of the T3/T5 exception without any corresponding broad-based exemption for investments held in Canadian registered security dealers accounts, undue compliance burden is placed on taxpayers arguably without much value to the Canadian treasury due to the low-risk nature of those accounts. The Canadian Government's scrutiny of off-shore assets appears to be moving full steam ahead, which is consistent with developments in other countries as well. However, one has to ponder whether there is a point where undue preparation burden placed on taxpayers in a self-assessing tax system may actually discourage the compliance and disclosure that the rules were intended to achieve.

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Last Updated: July 10 2014

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