DOING BUSINESS IN CANADA?

6 Considerations for Non-Canadian Investors

#1 Do you solicit or carry on business in Canada?

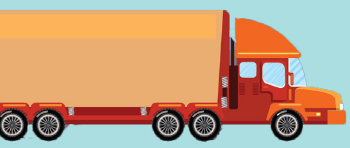
Yes? Then you may have a branch in Canada and be subject to reporting requirements and/or Canadian taxation. You may have to collect Canadian/provincial sales tax (See #3).

Don't forget! It may be possible to rely on a tax convention/tax treaty ("Treaty") to minimize Canadian taxation. Even if you are not subject to income tax in Canada, you may have to file tax returns to avoid unnecessary penalties.

#2 Do you perform services in Canada?

Yes? Then you may be subject to tax in Canada. Under Canadian law, there will be a 15% withholding tax (24% if the services are performed in Quebec) deducted from the gross payments. The withholding tax may then be treated as an estimated tax payment.

Don't forget! It may be possible to reduce or eliminate the withholding tax obligation by filing special waivers. Filing tax returns on a timely basis may result in obtaining a tax refund and avoiding penalties.



#3 Do you ship goods into Canada?

Yes? Then you may be subject to tax in Canada. You may have to register and obtain a federal (Goods and Services Tax) GST or HST (Harmonized Sales Tax) number and collect sales tax (See #1). You may have to register for a PST (provincial sales tax) number and collect sales tax. You may be subject to Canadian duty and custom costs. You may unnecessarily incur GST/HST costs.

Don't forget! Consideration should be made to registering under the GST/HST or relevant PST regimes to avoid potential penalties, interests and unplanned tax assessments.

#4 Do you send employees to Canada?

Yes? Then you may be subject to tax in Canada. You may be required to remit and withhold Canadian payroll deductions. The employee(s) may be required to file Canadian tax returns and/or be subject to Canadian taxation. The non-Canadian employee(s) may need a Canadian working visa. The employee(s) may become a tax resident of Canada and be subject to full Canadian taxation of his/her worldwide income. You may be subject to other Canadian related employment costs.

Don't forget! It may be possible for the employee(s) to minimize Canadian taxation by either planning ahead and/or relying on a Treaty. Canadian withholding can be reduced or eliminated by filing special waivers. It is possible to obtain an exemption from Canadian payroll costs.

#5 Do you own real estate in Canada?

Yes? You may be subject to tax equal to 25% of the gross rental proceeds received. You may have to file tax returns. You have to report the sale, or other dispositions of the real estate, to the Canadian taxation authorities. You may be subject to withholdings by the purchaser of 25% (or 50%) of the gross proceeds from the sale.

Don't forget! By making special elections, it may be possible to be taxed on a net income versus a gross receipt basis. It may be possible to reduce the 25% (or 50%) withholding tax on the proceeds by working with the Canadian government on a proactive basis. Global tax costs can be minimized by structuring the sale of the property on a tax efficient basis.

#6 Do you know all the implications of Doing Business in Canada?

No? Canada has sophisticated transfer pricing rules. The rules include preparing transfer pricing reports to support charges between you and a related entity doing business in Canada. Non-compliance with the rules can result in significant tax penalties.

Don't forget! A review of your transfer pricing costs with related Canadian entities should be considered. By reviewing the matter, penalties and interest costs could be reduced.

How can we help you?

Our professionals provide expertise in both international and domestic tax. Please contact our Tax Group leader, Karyn Lipman with any questions regarding our services.
karyn.lipman@crowesoberman.com or +1.416.963.7159