

The CRA's Foreign Reporting Requirements

Since Canada represents only a small portion of the world's capitalization, it may make sense to include some foreign investments in your portfolio. However, it is important to understand Canadian and other foreign tax implications of owning investments outside of Canada. For example, there may be withholding and estate tax implications for Canadians investing in foreign securities. Another important Canadian tax implication is the Canada Revenue Agency's (CRA) foreign reporting requirement for Canadian residents.

Specifically, if the aggregate cost of your foreign assets exceeded CDN\$100,000 at any time during the year, you are required to complete and file Form T1135 (Foreign Income Verification Statement) with the CRA. The deadline for filing Form T1135 with the CRA is the same deadline as your income tax return. Note that even if you are not required to file an income tax return, or if you electronically file your income tax return, you are still required to file a paper copy of the T1135 form if you meet the required criteria discussed herein.

Canadian resident individuals, as well as corporations, trusts and certain partnerships, are taxed on their worldwide income (regardless of source). Disclosing the details of your foreign assets on Form T1135 on an annual basis allows the CRA to determine whether you are reporting all income from foreign sources on your income tax return.

The following foreign investments should be included when calculating the CDN\$100,000 threshold:

- Shares, bonds or other securities issued by foreign corporations (public or private)
- Cash held in foreign bank accounts
- Debt of foreign governments (such as U.S. Treasury Bills)
- Certain mutual funds offered by foreign companies in Canada (does not include Canadian mutual fund companies that offer funds which invest in foreign securities)
- Interests in foreign rental properties
- Foreign trusts and partnerships, including limited partnerships.

Form T1135 filing requirements do not apply to:

- Investments held within a registered plan, such as a Tax-Free Savings Account (TFSA), Registered Retirement Savings Plan (RRSP), Registered Retirement Income Fund (RRIF) or Registered Education Savings Plan (RESP)
- Personal use property, such as a foreign vacation property used primarily as a personal residence.

2013 Federal Budget – Increased Reporting Requirements

The 2013 Federal Budget introduced several changes to Form T1135. Not filing Form T1135 by the annual deadline effectively reduces the time available for the CRA to obtain the information necessary to properly examine the foreign income reported on your income tax return. As a result, the 2013 Federal Budget changes extended the normal reassessment period by three years if the taxpayer fails to report income from a specified foreign property on their annual tax return and the Form T1135 was not filed on time or a specified foreign property was not identified (or was improperly identified) on the Form T1135. In addition, Form T1135 was revised in 2013 and further in 2014 in order to gather more detailed information on foreign holdings, such as the specific country to which the property relates, the amount of foreign income generated, the property's highest cost or value during the year, as well as the cost or value at year-end.

It is important to note that the foreign reporting requirements apply to foreign securities held in Canadian brokerage accounts. However, in response to the concerns raised by these increased reporting requirements, the CRA has created a special reporting method for specified foreign property held with a Canadian registered securities dealer.

Reporting for 2014 and later tax years

The CRA has implemented the following changes to Form T1135 for the 2014 and later tax years:

- If you held specified foreign property in an account with a Canadian registered securities dealer or a Canadian trust company, you will have the option to report the aggregate value of all such property, on a country-by-country basis, instead of reporting the details of each property. (Note that it is also acceptable to provide aggregate totals for each account on a country-by-country basis). The total value you have to report is the highest fair market value at the end of any month during the year in addition to the fair market value at year-end. You also have to report the aggregate income (loss) earned in the year and the gain (loss) realized from all dispositions during the tax year.
- This aggregate reporting will now be done in the newly-created Category 7 on Form T1135, “Property held in an account with a Canadian registered securities dealer or a Canadian trust company.”
- The reporting exception provided for the T1135 forms filed for the 2013 tax year that excluded certain property from the detailed reporting requirement when a T3 slip, or a T5 slip, was received in respect of foreign property has been eliminated as of 2014 and subsequent tax years.

Conclusion

Understanding the Canadian and foreign tax implications of investing in foreign securities is advisable when making investment decisions. Therefore, it is important to be aware of the CRA’s annual (enhanced) foreign reporting requirements – since failure to file Form T1135 when due or failure to disclose the relevant information can result in financial penalties. Individuals with significant foreign investments should consult with their tax advisor to understand the Canadian foreign reporting rules and how the detailed reporting requirements for 2014 and beyond will affect them – in addition to any other Canadian or foreign tax implications of investing in foreign securities.

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