Amarjit (A.J.) Manhas, CPA, CA
Stephen Chesney, FCPA, FCA
Benjamin J. Detsky, CPA, CA
H. Gordon Lee, CPA, CA
Jeffrey R. Dessau, CPA, CA
Pei (Peter) Zhang, CPA, CA
Allan Garber, CPA, CA
Munsoor A. Khan, CPA, CA
Acting as individuals and corporations

Doing Business in Canada

Canada has consistently been on the various lists produced annually as one of the best countries to live in from the point of view of political stability, education, health care, religious and social freedoms but one area often overlooked are the business opportunities and the tax implications for immigrating to Canada and setting up business in Canada.

Canada is made up of ten provinces and three territories covering almost 10 million square kilometres making it the second largest country in the world after Russia and the same size as all of the European countries put together but has a population of just more than 37 million working out to less than 3.7 people per square kilometre.

There is no tax implication when immigrating to Canada other than income tax on income earned in Canada before immigrating and income tax on world-wide income once resident in Canada. Canada is not interested in taxing assets brought into the country by immigrants so the tax regime allows immigrants to recognize a “step up” in the cost base of assets held by the immigrant at the time they enter the country. Therefore, Canada will only tax the capital gain on the disposition of assets based on the appreciation of the asset for the period the taxpayer was resident in Canada. Therefore it becomes important for immigrants to obtain a valuation of assets at the time of immigration.

While bringing funds into the country has no tax implication, financial institutions and other entities that handle funds for clients such as lawyers are required to ensure that funds deposited with them are legal and are required to report transactions of $10,000 or more to FINTRAC, which is the Federal program to detect and deter money laundering and terrorist financing.

As most countries other than the United States, Canada does not tax citizenship but does tax based on residency or, in the case of a non-resident, only if the income is Canadian-source. In an effort to reduce double-taxation Canada has tax treaties in force with 93 countries, another 4 signed but not yet in force and another 8 under negotiation. In addition Canada has 24 Tax Information Exchange Agreements in force, 1 signed but not yet in force and 5 in negotiation.

Under these treaties there are withholding taxes for payments of interest and dividends with most countries. Other than the US for which there is no withholding tax on interest, interest paid to recipients in most treaty countries is subject to a withholding tax of either 10% or 15% unless the interest is being paid to an arm’s length resident on non-participating debt in which case there is no withholding tax. Non-treaty countries have a withholding rate of 25%.

Dividends paid by Canadian corporations to non-residents are subject to a withholding tax of between 5% and 20% with many countries having hybrid rates with a lower rate for shareholders with a certain percentage of voting stock or powers which varies by treaty and the higher rate for portfolio investors. Non-treaty countries have a withholding rate of 25%.

Canada has also revised its thin capitalization regime which is meant to limit the non-arm's length funding of a Canadian business, including corporations, partnerships and trusts, by a non-resident to the point that the deductible interest reduces the income subject to limitations. The limitation restricts the interest deductibility to debt which is less than the ratio of shareholder debt to equity of 1 to 1.5. If the ratio is higher then that portion of the interest is denied as a deduction and cannot be carried forward or back to other years and is recharacterized as dividends which are after-tax distributions under Canadian law and will be subject to withholding tax on dividends at the applicable treaty rate.

Canadian personal tax rates depend on the province or territory of residence and calculated on a progressive system of increasing rates at published levels of taxable income. The highest marginal rate ranges are as follows:

Interest and ordinary income - 44.5% to 54%

Capital gains – 22.5% to 27%

Eligible dividends (usually from public companies) – 28.33% to 42.61%

Non-eligible dividends – 35.98% to 47.34%

The highest marginal rate applies in most jurisdictions on income exceeding $206,000.

Only one half of capital gains are taxed and dividends from Canadian public companies and investment holdings are taxed at reduced rates.

Canada has no estate or gift tax although there are special rules for gifts to spouses and minor children. Upon death the deceased is deemed to have sold all assets at fair market value and the gain, if any, is taxed at capital gain rates. The estate or beneficiary would then have a cost base established by the deemed disposition. Assets left to a spouse or spousal trust are not taxed until the death of the surviving spouse. Canada treats common-law spouses and same-sex spouses equally with traditionally married spouses as same-sex marriages are legal in Canada.

Each province and territory has a probate fee regime which range from 0.0% to 1.7% of the estate at the highest values.

Corporate tax rates are very competitive and range as follows:

Canadian and provincial general corporate income tax rates - 26.5% to 31%

Small business corporate tax rates – 9% to 17%

Small business rates apply to the first $500,000 per year in most provinces based on taxable income.

Canada welcomes immigration, other than refugee and asylum claims, on a point system that awards points for such factors as skills and experience, language (English or French), education, transferability of skills, Canadian degrees or diplomas, a valid job offer and family connections to Canada.

As you can see Canada offers great potential for immigrants and business.

20 Holly Street, Suite 400, Toronto, Ontario M4S 3E8 & 1 West Pearce Street, Suite 700, Richmond Hill, Ontario L4B 3K3
Tel: (416) 485-6000 Fax: (416) 485-1105 www.yalepgc.ca Tel: (905) 764-0404 Fax: (905) 764-0320

PARTNERING FOR SUCCESS

GMN International is an association of legally independent accounting firms