



# **STEP MONTREAL SEMINAR**

**November 20, 2013**

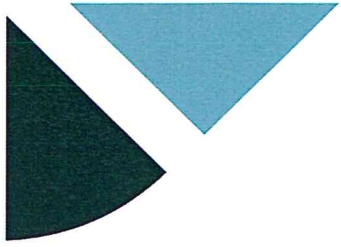
**Issues Relating to U.S. and Canadian  
Voluntary Compliance and OFFSHORE  
COMPLIANCE ENFORCEMENT**

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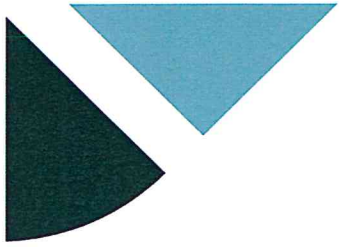
**SPIEGEL SOHMER**



# Part 2

## Uncooperative Federalism and the Elephant Next Door.





# Current Federal Policy

Years to be assessed: Years for which documents and evidence are available:

- Swiss Banks: 10 years
- Caribbean and Hong Kong Banks: 7 years

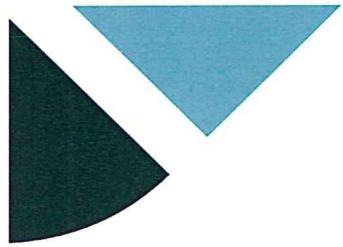




# No-name Disclosure

- Taxpayers are required to provide all disclosure information except their name at the time they make a submission, so the CRA may determine whether to accept it in the VDP.
- Have up to 90 days to identify themselves or the disclosure will be closed without further contact from the CRA.
- 90 day period will start the day that the CRA contacts a taxpayer or their representative to discuss the disclosure.





# Federal Policy

- Net income & net capital gains taxed each year for which bank statements are available (e.g. 10 years or 7 years depending on the bank).
- Opening capital is not subject to tax.
- Interest applied to overdue tax payable with 4% interest relief for statute-barred years.



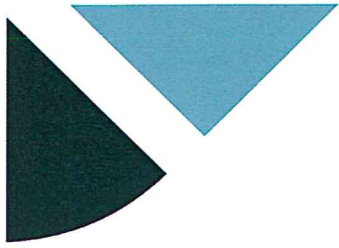


# Federal Policy

(Continued)

- If taxable income or net capital gains can be determined for periods beyond 10 years, tax payable will be subjected to full interest rates (T1135, etc.) for stub period (*Bozzer*).
- Unexplained transfers taxed as income.
- Adjusted cost base of stocks in opening capital is nil unless evidence of cost.

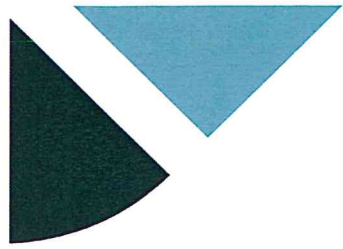




# Quebec Policy

- Net income & net capital gains taxed for 6 years.
- Opening capital taxed in its entirety unless it is proven to have tax-exempt or tax-paid origins.
- Interest charges:
  - Not applicable for statute-barred years and opening capital.
  - Applied at prescribed rates for last three years.





# Quebec Policy

(continued)

- Opening Capital Policy and Exchange Rate Policy for Statute-Barred Years:
  - Shares and similar assets included at 50% and exchange rates at actual Bank of Canada exchange rates.
- Cash, Bonds and Fiduciary Deposits included at 100% and Bank of Canada exchange rates at December 31, for year prior to year of disclosure.







# CRA: Bark vs Bite

House of Commons Question Period:  
September 30, 2010

## **Stephen Harper – Prime Minister:**

*Mr. Speaker, our position is very clear. If Canadians are using Swiss bank accounts to avoid paying taxes in Canada, those people will face the full force of Canadian Law.*

## **Gilles Duceppe Laurier – Sainte-Marie, QC:**

*Mr. Speaker, what I am asking is if he will make an official request to France to obtain that list. Then, once the evidence is obtained, will the Prime Minister commit to not reaching an out of court settlement with the individuals in question, and instead recover they money and bring criminal charges against the guilty parties? The government should punish these white-collar criminals, who are costing it millions of dollars.*





# CRA: Bark vs Bite

## (Continued)

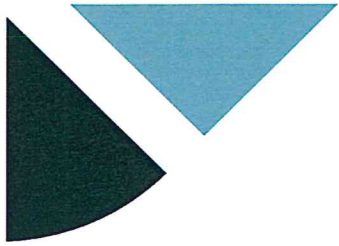
### **Stephen Harper – Prime Minister:**

*Mr. Speaker, one again, this government will not tolerate Canadians using Swiss bank accounts to avoid paying taxes.*

### **Affidavit by CRA in HSBC Litigation:**

15. Furthermore, the International and Large Business Directorate of the CRA, in regards to the HSBC Audit Project, has never disguised a criminal investigation for the purpose of assisting the Criminal Investigations Division of the CRA, but rather is performing exclusively and solely civil audits that have no past, or imminent investigative purpose.





# ARQ: Bark vs Bite

More than 10,000 penal prosecutions in process

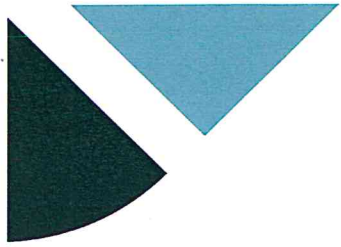
Threat to use Criminal Code and to ask for incarceration more frequently.

Focus on construction, precious metal processing, placement agencies, tobacco, restaurants, fuel (i.e. domestic)

- 30 VDP officers
- No credible threat re-offshore

“Présentation Des Activités De La DGEPP, October 10, 2013





# The Current Policy is the tip of the Iceberg

- 1) To appreciate where we are and where we may be, we must know where we were and how we got to where we are.
- 2) The exercise is particularly important for non-compliant U.S. citizens resident in Quebec since U.S., Canadian and Quebec taxes, interest and penalties and related professional fees may exceed the amount offshore.
- 3) Start with the review of the VDP in the 2004 Report of the Auditor General of Canada.



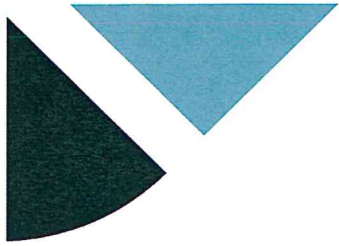


# 2004 Report of the Auditor General of Canada

Art. “6.66 Years to be assessed. Voluntary disclosures must be complete disclosures. However, some amounts that are disclosed may not be assessed. While the information circular does not discuss this, the guidance given to officers does. For example, if a taxpayer knowingly has not reported income from offshore investments for the last 20 years, the taxpayer must disclose this and the officer has to determine how much of that income is to be assessed. Making that decision means finding the balance between what the taxpayer owes and what the taxpayer is willing to pay to become compliant, taking into account that the result also has to be fair to taxpayers who have been compliant. The guidance states that when omissions have occurred in any of the most current six years for which taxes are due, the officer should include those years in the assessment. But when the omissions also occur in years other than the most current six, the officer must determine whether the other years should also be included by considering factors such as

- how material the omission is in relation to the amounts originally reported;
- whether a significant portion of the omission relates to years prior to the most current six;
- the taxpayer’s or registrant’s compliance history; and
- how long the taxpayer or registrant has been non-compliant.”





# 2004 Report of the Auditor General of Canada Continued

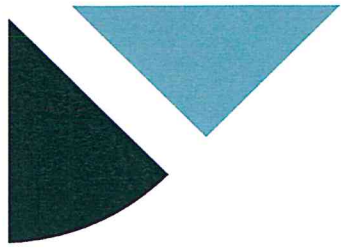
“6.67 We found that there were significant inconsistencies in the way this guidance is followed across the country. Taxpayers and registrants in similar circumstances are not being treated consistently.”

“6.71 **Recommendation.** The Canada Revenue Agency should implement its February 2004 action plan, with particular emphasis on aspects designated to ensure that the program is administered consistently across the country.”

**Agency’s response.** The Agency agrees with the recommendation and has started the following:

- Implementing the February 2004 action plan that will address consistency issues.





# 2004 Report of the Auditor General of Canada Continued

Note 1: The policy in Quebec was known as the 38% policy:

Each of the CRA and ARQ settled at 19% but backed into the amount differently Inconsistencies even in Quebec : e.g. Mulroney settlement at 25%.

Note 2: In response to the Report the CRA withdrew from the 38% approach and commenced a review intended to place the policy on a solid legislative footing. Quebec withdrew as well.





# The Statute

## SUBSECTION 152 (4)

“The Minister may at any time make an assessment, reassessment or additional assessment of tax for a taxation year ..., except that an assessment, reassessment or additional assessment may be made after the taxpayer’s normal reassessment period in respect of the year only if:

(a) The taxpayer filing the return;

i) Has made any misrepresentation that is attributable to neglect, carelessness or willful default or has committed any fraud in filing the return...”

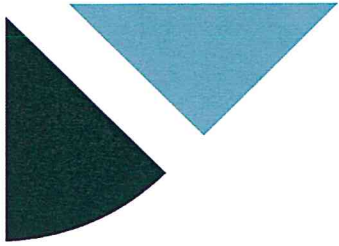
(b.2) The assessment, reassessment or additional assessment is made before the day that is three years after the end of the normal reassessment period for the taxpayer in respect of the year and if ...

ii) The taxpayer has failed to report, in the return of income for the year, an amount in respect of a specified foreign property that is required to be included in computing the taxpayer’s income for the year.”

[b.2 Is in the Notice of Ways and Means Motion dated October 18, 2013, applicable to the 2013 and subsequent taxation years.]







# The Statute Continued

## SUBSECTION 152 (3.1)

“For the purposes of subsection (4) ... the normal reassessment period for a taxpayer in respect of a taxation year in respect of a taxation year is...

(b)The period that ends three years after the day of sending a notice of an original assessment.”

## SUBSECTION 161 (1) and (2)

(1) “Where at any time after a taxpayer’s balance-due day for a taxation year

(a)The total of the taxpayer’s taxes payable ... exceeds;

(b)The total of all amount ... paid...;

The taxpayer shall pay to the Receiver General interest at the prescribed rate...”

(2) “In addition to the interest payable under subsection (1), where a taxpayer is required ... to pay ... installment of tax..., the taxpayer shall pay ... interest at the prescribed rate...”





# The Statute Continued

## **SUBSECTION 163 (2)**

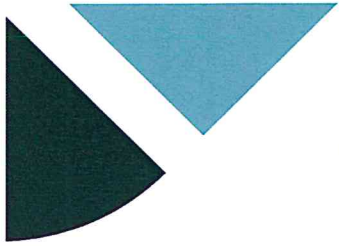
“Every person who, knowingly, or under circumstances amounting to gross negligence ... is liable to a penalty of ... 50% of ... the tax for the year that would be payable.”

## **SUBSECTION 220 (3.1)**

“The Minister may, on or before the day that is ten calendar years after the end of a taxation year of a taxpayer ... waive or cancel all or any portion of any penalty or interest.”

**Note:** S 94.1 Quebec Tax Administration Act does not contain a 10 year limit.





# The Statute Continued

## **SUBSECTION 230 (1)**

“Every person carrying on a business and every person who is required ... to pay or collect taxes ... shall keep records and books of account.”

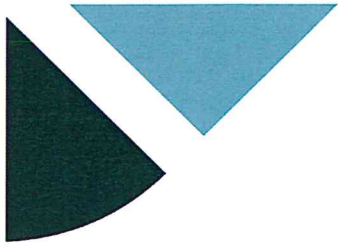
## **SUBSECTION 230 (4)**

“Every person required ... to keep records and books of account shall retain.

The records and books of account ... in respect to which a period is prescribed ... (Regulation 5800 – two years after a corporate taxpayer is dissolved).

All other books and records ... until the expiration of six years from the end of the last taxation year to which the books and records relate.”





# The Jurisprudence

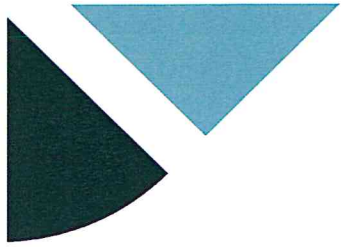
- 1) *Stemijon Investments Ltd. v. Canada* [2012] 1 C.T.C. 207 – Federal Court of Appeal:

“The Federal Court held that the standard of review of the Minister’s decision is reasonableness. In this Court, the parties accept this. This Court can interfere only if the Minister reached an outcome that is indefensible on the facts and the law.” (paragraph. 20)

- 2) *Cohen v. R* [1980] C.T.C. 318 – Federal Court of Appeal:

“In my view, the trial judge correctly dismissed that argument ... ”...the Minister has a statutory duty to assess the amount of tax payable on the facts as he finds them in accordance with the law as he understands it. It follows that he cannot assess for some amount designed to implement a compromise settlement ...”. The agreement whereby the Minister would agree to assess income tax otherwise in accordance with the law, would in my view, be an illegal agreement.” (paragraph. 5)





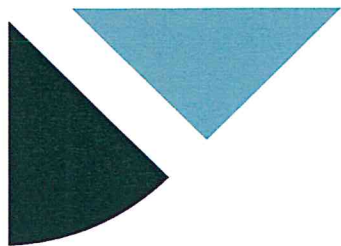
# The Jurisprudence Continued

## 3) *Hickman Motors Ltd.*, [1997] SCR 736.

The Minister, in making assessments, proceeds on assumptions (*Bayridge Estates Ltd. V. Minister of National Revenue* (1959), 59 D.T.C. 1098 (Can. Ex. Ct.), at p. 1101) and the initial onus is on the taxpayer to “demolish” the Minister’s assumptions in the assessment (*Johnston v. Minister of National Revenue*, [1948] S.C.R.486 (S.C.C.); *Kennedy v. Minister of National Revenue* (1973), 73 D.T.C. 5359 (Fed. C.A.), at p. 5361).

This initial onus of “demolishing” the Minister’s exact assumptions is met where the appellant makes out at least a prima facie case: *Kamin v. Minister of National Revenue* (1992), 93 D.T.C. 62 (T.C.C.); *Goodwin v. Minister of National Revenue* (1982), 82 D.T.C. 1679 (T.R.B.).





# The Jurisprudence Continued

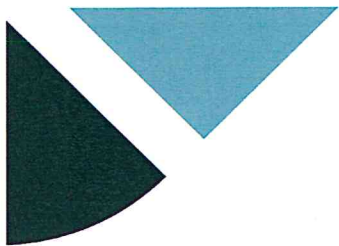
4) *Lacroix v. R* [2008 DT (655)] – Federal Court of Appeal:

“Bien que le ministre bénéficie des présomptions de fait que sous-tendent la nouvelle cotisation, il ne jouit d’aucun avantage semblable pour ce qui est de la preuve des faits justifiant l’établissement d’une nouvelle cotisation hors de la période statuaire ... le ministre est indéniablement dans l’obligation de mettre en preuve les faits justifiant l’invocation de ces mesures exceptionnelles”.

5) *House v. R* [2012] 1 C.T.C. 13 – Federal Court of Appeal.

“The Associate Chief Justice appears to have elevated the judicial requirement that supporting documents may be required for a taxpayer to establish his or her claims and deductions to an authoritative principle that documents will always be required for a taxpayer to establish his or her case. There is, in my respectful view, no principle to the effect that oral evidence must necessarily be supported by source documents. Whether documents are required to establish a point will depend on the particular circumstances of the case. However, whether documents are required or not, a judge must nonetheless assess the oral evidence and determine whether it is credible. The requirement for documents, or not, will often turn on such an assessment.” (para. 72)





# The Jurisprudence Continued

6) *Bozzer v. MNR* [2010] 3 C.T.C. 137 – Federal Court of Appeal:

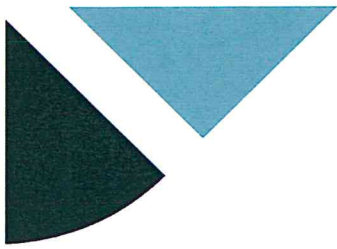
“Subsection 220(3.1) is one of several taxpayer relief provisions in the Act. It was introduced in 1991 as part of what was called a “fairness package”. The Minister has explained the purpose behind these provisions as follows:

The legislation gives the CRA the ability to administer the income tax system fairly and reasonably by helping taxpayers to resolve issues that arise through no fault of their own and to allow for a common-sense approach in dealing with taxpayers who, because of personal misfortune or circumstances beyond their control, could not comply with a statutory requirement for income tax purposes”. (para. 22)

However, in this case, the plain words of subsection 220(3.1) support the description of the purpose in the above passage, and there is nothing in the history behind subsection 220(3.1) or in related sections that would cast doubt on it. (para. 24)

Therefore, I am prepared to accept the description of purpose in the above passage as the purpose that subsection 220(3.1) is meant to further.” (para. 25)



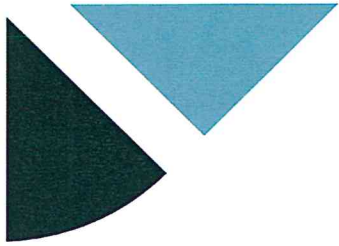


# Commentary on the Law

- 1) The Minister has the discretion to assess tax or not to assess tax with respect to a statute-barred year provided that if tax is assessed he discharges the burden of proving that the taxpayer made a misrepresentation that is attributable to neglect.
- 2) Whether or not an admission that opening capital was not tax-paid is sufficient to discharge the Minister's burden with respect to any one or more prior statute-barred years has not yet been determined. The CRA is of the opinion that it is not.
- 3) If the Minister assesses tax with respect to a statute-barred year he must assess interest from the balance-due date. A determination to waive or cancel in whole or in part such interest can only be made where the failure to pay is attributable to circumstances beyond the control of the taxpayer. Transferring funds to an offshore account and not reporting income therefrom are not an acts which are beyond the control of a taxpayer. The waiver of interest in such case may be illegal, but CRA policy continues based on a textual interpretation.
- 4) The Minister has the discretion to assess or not to assess gross negligence penalties even where tax is assessed. The discretion not to assess penalties is exercised by not making proof of gross negligence.







# Commentary on the Law Continued

- 5) The Minister may exercise his discretion not to assess tax or penalties with respect to a statute-barred year even if all of the conditions for a disclosure to be accepted as a voluntary disclosure are not met. However, it would not be a reasonable exercise of discretion if the Minister would only be prepared to do so if the taxpayer agreed to a settlement which is not “principled” because it does not reflect the correct application of the law to the facts. Articles 2631 to 2637 CCQ are not applicable.
- 6) The assessment of tax on the basis that opening capital was earned in the opening year is not principled. The conversion of income denominated in a foreign currency into Canadian currency by reference to foreign exchange rates which were not in effect at the time the income was earned is not principled.
- 7) To qualify as a valid disclosure, the taxpayer must provide full and accurate facts and documentation for all taxation years or reporting periods where there was previously inaccurate, incomplete or unreported information. This requirement is a matter of administrative policy and is not required by the Act or the case-law. Where an assessment is appealed to the courts, credible oral evidence may suffice.





# The CRA's Response to Consistency Issues

- 1) The CRA's Voluntary Disclosure Program (VDP) gives taxpayers an opportunity to come forward and self-correct, potentially avoiding punitive penalties or prosecution. However, taxpayers who make voluntary disclosures still have to pay all outstanding taxes and interest due (CRA Annual Report to Parliament 2012-2013).
- 2) A decision to open statute-barred years must be based on the provisions of subsection 152 (4)(a)(i) of the ITA, i.e. years for which documents and evidence are available.
- 3) For unfiled tax returns, the CRA is obligated to assess as far back as there are returns to be filed.
- 4) The Agency notes that the Auditor General believes that the CRA has gone beyond what Parliament was told the legislation supporting the Voluntary Disclosures Program (VDP) would be used for. The Agency maintains, with the reassurance of the Department of Justice Canada, that the interest of Parliament is contained in the words of the acts as passed by Parliament. (i.e. subsection 220 (3.1) is not limited to exceptional circumstances beyond the control of the taxpayer, thereby permitting a 4% reduction in interest rates for statute-barred years.)
- 5) Even though undeclared income may have reduced corporate income, the CRA has not requested disclosures by corporations and has allowed unexplained deposits to be taxed as income to taxpayer.





# Position of Quebec

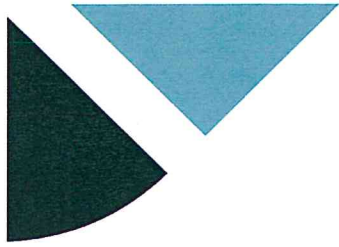
- 1) “Nous avons rappelé que pour être accepté à titre de divulgation volontaire, une demande faite en vertu du programme devait rencontrer les critères pour être complète et vérifiable et que, si une personne ne voulait pas déclarer ses revenus imposables en alléguant le manque de preuve documentaire, nous serions dans l’obligation de conclure que la divulgation est incomplète et non-vérifiable, donc irrecevable dans le cadre du programme des divulgations volontaires.
- 2) Néanmoins, nous avons mentionné qu’afin de faciliter le traitement de leur dossier, et d’éviter de cotiser chacune des années visées par les omissions, qu’une personne pouvait négocier une entente (transaction) avec Revenu Québec, selon la preuve documentaire disponible et les lignes directrices de Revenu Québec.”

(Affidavit of Serge Dulong in *Paul Major v. L’Agence du Revenu du Québec*.)

- 3) The position of the ARQ was buttressed by a legal opinion which argued:
  - a) In *HSU v. The Queen* [2000] C.T.C. 2243, a net worth assessment for non-statute-barred years was permitted where there was no closing net worth value because of an absence of records based on an assumed 10% return (prime +2).
  - b) “Or, absolument rien ici ne s’oppose en principe à ce que cette logique propre à cette méthode comptable s’applique telle quelle **à l’envers**.”

(Gille Bourque, “Prise de Position de Revenu Québec sur les Cotisations Estimatives ” *Revue de planification fiscales et financière*, Vol. 32, n°3, 487)

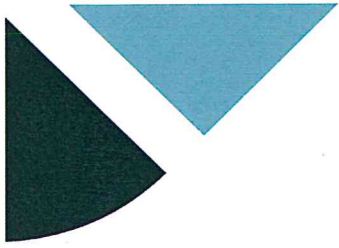




# Position of Quebec Continued

- 4) The position of the ARQ is not principled because the opening capital could not have been earned in the opening year. It ignores the burden on the Minister to prove misrepresentation etc., in order to re-assess statute-barred years. Quære: Is the refusal to accept a disclosure because the taxpayer will not agree to tax on opening capital a reasonable exercise of discretion ? (Major and Klein cases)
- 5) Residents of Quebec who disclose are subject to approximately twice the tax that is payable by residents of other provinces.
- 6) If there is no fear of criminal or penal prosecution (e.g. an estate), it may be less costly to refuse the ARQ terms and to file a notice of objection. Annual gross negligence penalties and no interest relief may be less costly than the tax on opening capital.

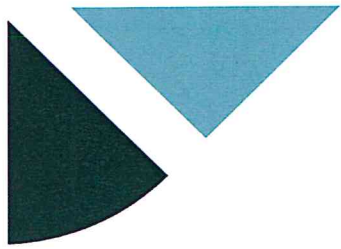




# Economic Impact of Quebec Position

- 1) In fiscal year 2011-2012 the Quebec VDP produced \$51.7 million of tax “pour les lois du Québec” and \$14.9 million for G.S.T. For the fiscal year 2012-2013, collections were \$21.9 million and \$3.8 million for G.S.T. Assuming that T.V.Q. is equal to G.S.T., collections for income tax in 2011-2012 were \$36.8 million and for 2012-2013 were \$18.1 million. (Comparution 2013-2014 De Revenu Québec – Demande de Renseignements De L’Opposition Officielle).
- 2) In fiscal year 2011-2012, the CRA VDP identified \$863 million in unreported income and in fiscal year 2012-2013, the VDP identified \$1.2 billion in unreported income. Assuming a federal tax rate of 29%, tax collected for 2011-2012 would be \$250 million and for 2012-2013 would be \$348 million.
- 3) If the population of Quebec is 20% of Canada’s population, Quebec should have collected \$50 million in 2011-2012 and \$240 million in 2012-2013. While collections in other provinces may have included several substantial amounts, the statistics indicate that the Quebec VDP is materially less effective than the federal VDP.
- 4) In 2011-2012 Quebec received 577 disclosures and Canada received 15,167 disclosures. On a *pro-rata* basis, Quebec should have received 3,033 disclosures. This confirms the weakness of Quebec’s program. (Note: Numbers may be skewed because no Quebec T1135)



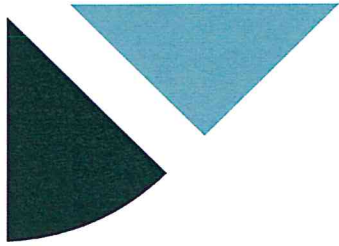


# Economic Impact of Quebec Position Continued

- 5) Article 3155 of the CCQ provides that decisions rendered outside Quebec are not enforceable in Quebec if “the decision enforces obligations arising from the taxation laws of a foreign country”. Article 3077 CCQ provides that “where a country comprises several territorial units having different legislative jurisdictions, each territorial unit is regarded as a country”. Article 3162 CCQ provides that Quebec will enforce obligations resulting from the taxation laws of foreign countries in which the obligations resulting from the taxation laws of Quebec are enforced. Quebec has no assistance in collection agreement with any province, state or country. Since Quebec residents are not subject to an exit tax when they move to another province, there is an incentive for potential disclosers to liquidate their Quebec situs assets and move to another province. In such cases Quebec will not only lose the tax payable on a disclosure, it will lose the tax on annual income as well as the tax arising from the deemed disposition of assets on death. Assuming that such former residents only disclose to the CRA and that the CRA informs the ARQ, not only will the taxes and penalties payable to the ARQ not be collectible but no tax will be payable to the province of residence with respect to years in which the taxpayer resided in Quebec. If such former residents do not disclose at all but bequeath their assets to U.S. citizen heirs who reside in the U.S., even tax payable to the CRA may not be collectible.

(Note that net interprovincial migration from Montreal in 2011 was 11,543 and is expected to increase.)





# Anticipated Changes in Federal VDP

- 1) Where income from specified foreign property is not included, there will be no interest cancellation for 6 years.
- 2) If the decision in *Bozzer* is followed, interest may no longer be cancelled under subsection 220 (3.1).
- 3) The recent designation of the Shawinigan Tax Centre as an intake centre without an audit function, may result in disclosures being audited at the taxpayer's TSO by "bean counting" auditors with no disclosure experience. The upside is that most disclosures will not be audited.
- 4) The current policy is that a disclosure is voluntary provided that the taxpayer has not been notified an audit has commenced. It is anticipated that an automated exchange of information will become the OECD standard and disclosures may not be accepted as voluntary after the information is received by Canada.



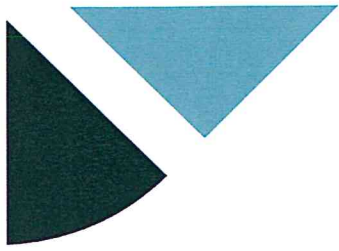


# Ethical Issues

- 1) Taxpayer possesses more than 10 years of bank records.
- 2) Deferring disclosures where deposits or withdrawals in disclosure period.
- 3) Deferring disclosures by Quebec residents where heirs do not reside in Quebec.
- 4) Deferring federal disclosure by Quebec resident until death and ignoring Quebec.
- 5) Deferring disclosures by Canadian residents where heirs U.S. citizens and no material assets in Canada.
- 6) Retired CRA consultants offering low-tax high-fee “quiet disclosures”.



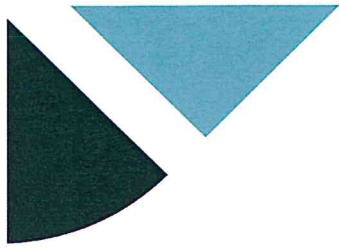




# U.S. Citizens Resident in Quebec

- 1) Under the U.S. voluntary disclosure program the undeclared income is taken into account in each of the 8 years covered by the program. Cash method taxpayers can elect to accrue foreign taxes for purpose of the credit. However a foreign tax is not creditable if it not paid within 2 years after the close of the taxable year to which the tax relates.
- 2) No Federal or Quebec tax payable under the VDP will be paid within the 2 years.
- 3) Canadian and Quebec tax is not creditable against the FBAR penalty (it is not a tax).
- 4) Quebec tax on opening capital does not relate to the opening year.

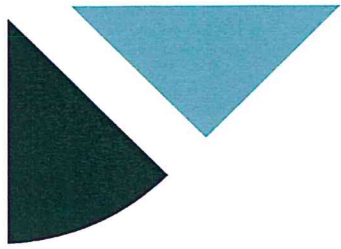




# U.S. Citizens Resident in Canada Continued

- 5) Taxes interest and penalties, including the FBAR penalty, payable under the OVDP are not creditable in Canada or Quebec.
- 6) Assuming that 40-50% of the amount offshore is payable under the U.S. OVDP and that 35-40% is payable under the federal and Quebec VDP's, the effect is confiscation of the entire account.
- 7) U.S. taxes, interest and penalties may be mitigated by way of a "quiet disclosure". Quiet disclosures are fraught with danger.
- 8) U.S. streamlined filing program will not be available if U.S. returns show more than \$1500 in U.S. tax owing (because e.g. Canadian mutual funds are PFIC's) or if taxpayer is non-compliant in Canada.

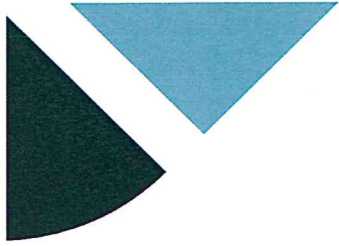




# Exchange of Information: Article XXVII *Canada-U.S.* *Income Tax Convention*

- 1) Information exchanges are specific, automatic and spontaneous.
- 2) Where information is found during the course of an audit that “may be of interest”, the information is forwarded spontaneously. For 2001/2002, Canada received 18 spontaneous exchanges and sent 22.
- 3) There is no publicly available evidence that Canada provides the U.S. with information respecting U.S. citizens who are resident in Canada. Quaere: Will U.S. advise Canada of offshore holdings by U.S. citizens resident in Canada ?
- 4) FBAR penalties arise under Title 31 of the U.S. Code and may not within the scope of taxes covered by the Treaty.

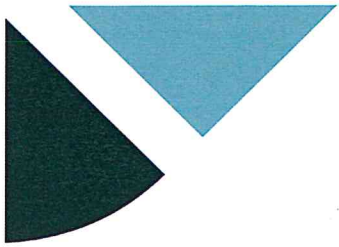




# Assistance in Collection of Tax Debts: Article XXVIA *Canada- U.S. Income Tax Convention*

- Assistance is provided by Canada in collecting U.S. tax owing and interest and penalties ancillary thereto.
- FBAR penalties are not collectible because they are not income or capital taxes imposed under the Code or related penalties.
- Assistance is provided by the U.S. in collecting all taxes collected by or on behalf of Canada (i.e. includes provincial tax other than Quebec tax).





# Assistance in Collection of Tax Debts: Article XXVIA *Canada- U.S. Income Tax Convention* (Continued)

- The “Revenue Claim” must not relate to a period in which the taxpayer was a citizen of the requested state. “Quaere” Is section 160 *ITA* liability a “revenue claim” (i.e. liability where property transferred at less than F.M.V.)?
- Canada has signed but not yet ratified the “Convention on Mutual Administrative Assistance in Tax Matters”. Canada will reserve against Articles 11 to 16 of the Convention so that it will not collect U.S. taxes from Canadian citizens.





**Source:**

CCH Fiscalité/Impôt sur le revenu/Impôt sur le revenu du Québec/Formulaires, guides et autres documents gouvernementaux/Ententes d'échanges de renseignements/ENTENTE QUÉBEC — CANADA

**ENTENTE QUÉBEC — CANADA**

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**ENTENTE SUR LES ÉCHANGES DE RENSEIGNEMENTS ENTRE LE MINISTRE DU REVENU DU QUÉBEC ET LE MINISTRE DU REVENU NATIONAL**

**ATTENDU QUE** le ministre du Revenu du Québec est chargé de l'administration et de l'application des lois fiscales du Québec.

**ATTENDU QUE** le ministre du Revenu national est chargé de l'application et de l'exécution de la Loi de l'impôt sur le revenu du Canada (S.C. 1970-71-72, c. 63 et amendements).

**CONSIDÉRANT** d'une part les articles 9 et 70 de la Loi sur le ministère du Revenu (L.R.Q., chapitre M-31) et d'autre part l'alinéa 241(4)(b) de la Loi de l'impôt sur le revenu et le Règlement 3000 de l'impôt sur le revenu (Codification 1978 C. 945, tel que modifié), les parties conviennent de ce qui suit:

**DÉFINITIONS**

1. À moins que le contexte n'indique un sens différent:

1° le mot «Loi» signifie, pour le Québec, la Loi sur les impôts, la Loi concernant l'application de la Loi sur les impôts et la Loi sur le ministère du Revenu, cette dernière limitée toutefois aux articles appliqués pour les fins de la Loi sur les impôts et, pour le Canada, la Loi de l'impôt sur le revenu;

2° le mot «sous-ministre» signifie, pour le Québec, le Sous-ministre du Revenu et, pour le Canada, le Sous-ministre du Revenu national, Impôt;

3° le mot «partie» signifie d'une part Revenu Québec et d'autre part Revenu national, Impôt;

4° le mot «renseignement» signifie toute information obtenue par l'une des parties ou tout état écrit fourni à l'une des parties, selon l'une des Lois, ou pouvant être obtenu ou fourni en vertu d'une des Lois, ainsi que tout support d'information, y compris les données qu'il renferme, lisibles par l'homme ou la machine, décrits aux annexes «A» et «B», telles que modifiées de temps à autre;

5° le mot «contribuable» comprend toute personne, telle que définie dans les Lois, assujettie ou pouvant être assujettie à la Loi de la partie qui fait la demande de renseignements en vertu de la présente entente.

**GÉNÉRALITÉS**

2. Les présentes ont pour but d'accroître la coopération entre les parties en ce qui a trait à l'administration des Lois au moyen d'un plus grand échange de renseignements d'intérêt réciproque concernant tout contribuable.

**APPLICATION**

3. Sous réserve de l'article 5, les renseignements visés par la présente entente comprennent:

1° en ce qui concerne Revenu national, Impôt, tous les renseignements décrits à l'annexe «A»;

2° en ce qui concerne Revenu Québec, tous les renseignements décrits à l'annexe «B».

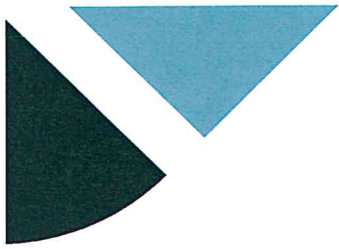
4. Sous réserve de l'article 5, les demandes de renseignements qui ne sont pas indiqués aux annexes «A» ou «B» de la présente entente sont évaluées par la partie à qui la demande est faite.

Chaque demande doit préciser:

1° la nature et la portée des renseignements demandés;

2° les utilisations proposées de ces renseignements;





# Cross Border Issues

- 1) A Canadian resident husband whose U.S. citizen Canadian resident wife has a POA on the account. They have been married and resident in Canada for 50 years. What if the account is joint? (Note: Swiss Form A)
- 2) A Canadian resident husband established a tax haven trust which owns a BVI company which has an offshore account. The husband died and his U.S. citizen Canadian resident wife is his sole heir. (Who discloses?)
- 3) A Canadian resident bequeaths an offshore account to his children, some of whom are resident in Canada and some of whom are U.S. citizens resident in the U.S.



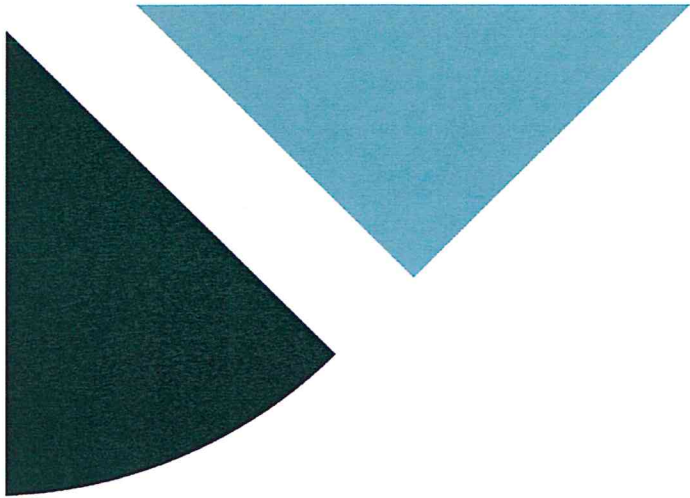


# Cross Border Issues (Continued)

- 4) A Canadian resident U.S. citizen wife whose non-resident parents bequeathed an offshore account to her 15 years ago.
- 5) A Canadian resident U.S. citizen husband bequeaths an offshore account to his Canadian citizen and resident wife. Several years later she bequeaths the account to her children, some of whom are U.S. persons.
- 6) An elderly Quebec resident U.S. citizen is contemplating entering the U.S. OVDP because of FATCA but not disclosing in Canada because of the “no fishing expedition” exception in Canada’s treaty with Switzerland.







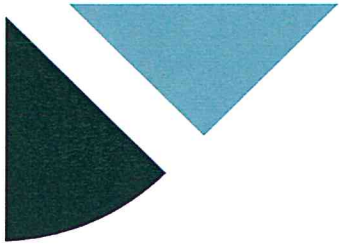
# Thank you

David H. Sohmer  
Spiegel Sohmer Inc.  
1255, Peel Street, Suite 1000  
Montréal, Québec  
H3B 2T9

Telephone Number: 514-875-2100  
Email: [dhsohmer@spiegelsohmer.com](mailto:dhsohmer@spiegelsohmer.com)



**SPIEGEL SOHMER**



# APPENDICES

- 1) ARQ intake form
- 2) CRA intake form
- 3) Canada – Swiss Protocol – Exchange of Information
- 4) OECD commentary re-exchange of information
- 5) Swiss Form A



## Voluntary Disclosure Application

If you wish to make a voluntary disclosure in order to rectify your tax situation, you or your authorized representative can apply to have a file opened under the voluntary disclosure program by completing this form.

The voluntary disclosure policy applies only if you meet the conditions set out in the current version of interpretation bulletin ADM. 4. If your voluntary disclosure concerns the GST/HST, you must meet the conditions mentioned in the current version of information circular IC00-1, which can be found on the Canada Revenue Agency website at [www.cra-arc.gc.ca](http://www.cra-arc.gc.ca). If you meet the applicable conditions, Revenu Québec will not impose the penalties provided for under fiscal legislation and will waive its right to institute penal proceedings in respect of the facts disclosed in your application.

Please note that the voluntary disclosure policy does not apply in certain situations, which are described in interpretation bulletin ADM. 4 and information circular IC00-1.

### Date the file is opened

As specified in interpretation bulletin ADM. 4, the date on which a voluntary disclosure file is opened corresponds to the date on which Revenu Québec receives a duly completed copy of this form.

### Application submitted by an authorized representative

A voluntary disclosure application can be submitted by an authorized representative, in which case a duly completed and signed copy of form MR-69-V, *Power of Attorney, Authorization to Communicate Information, or Revocation*, must be enclosed with this form. In the case of an anonymous disclosure, form MR-69-V must be submitted when the name of the applicant is divulged to Revenu Québec.

### Anonymous disclosure

An authorized representative can file an application anonymously on behalf of the person he or she is representing, provided no other voluntary disclosure application has been previously filed by that person. If you have your authorized representative file your disclosure anonymously, your representative will have to provide us with your name within 90 days following the date the file is opened.

Note that, in certain situations, Revenu Québec reserves the right to ask for the name of the applicant before the 90-day period is over.

An authorized representative who files a voluntary disclosure application anonymously must complete the shaded sections (note that the first three characters of the postal code are required) in Part 1 of this form and then complete parts 2 through 5.

### Filing an application

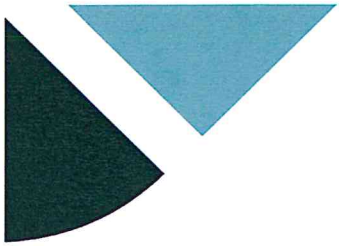
You can mail or fax the voluntary disclosure application to the appropriate Revenu Québec office. For more information, see page 4.

### Additional information

For more information about Revenu Québec's voluntary disclosure policy, refer to the current version of interpretation bulletin ADM. 4 or to the brochure *Voluntary Disclosure: Rectifying Your Tax Situation* (IN-309-V). You can also visit our website at [www.revenuquebec.ca](http://www.revenuquebec.ca).

## 1 Information about the applicant (please print)

Social insurance number		Québec enterprise number (NEQ)	Identification number	File	GST account number
					R.T.
Name of applicant (first name and last name, in the case of an individual)					
Sex	<input type="checkbox"/> M <input type="checkbox"/> F	Date of birth	Commercial or professional activities, if applicable		Date on which activities began
Full address					Postal code
Area code Telephone	Extension	Area code Fax	Country of residence (if not resident in Canada)		



## 2 Information about the application

Have you ever previously filed a voluntary disclosure application with Revenu Québec?

Yes  No If you checked "Yes," provide the date of the previous application. 

Y	M	D							

As mentioned in interpretation bulletin ADM. 4 and information circular IC00-1, if you are filing a second voluntary disclosure application, you must provide the name of the applicant as well as detailed information about the first voluntary disclosure (including the file number if you know it). If you do not have enough space, provide the requested information on a separate sheet and enclose it with your application.

## 3 Information about the authorized representative (please print)

Name of representative			
Full address			Postal code
Area code Telephone	Extension	Area code Fax	Email

If the name of the applicant is provided, check this box.

Enclose a duly completed copy of form MR-69-V, *Power of Attorney, Authorization to Communicate Information, or Revocation.*

## 4 Required information

**Summary of the facts.** Explain why you are making a voluntary disclosure and describe how your application meets the conditions for it to be considered a voluntary disclosure. All voluntary disclosure applications must include enough information to allow us to check the facts. If you do not have enough space, provide the requested information on a separate sheet and enclose it with your application.

**Person or entity involved**

Individual  Testamentary trust  Inter vivos trust  Business corporation  Partnership

Other (specify): \_\_\_\_\_

**Nature of the duties**

Personal income tax  Corporation income tax  Source deductions and employer contributions  QST  GST/HST

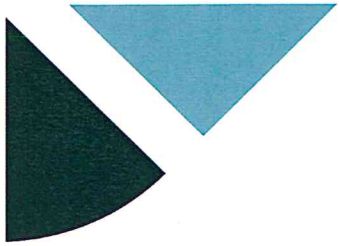
Other (for example, fuel tax or tobacco tax). Specify: \_\_\_\_\_

**Type of omission.** Describe the nature of the omission (for example, unreported business or investment income or consumption taxes that were collected but not remitted).

**Periods covered by the voluntary disclosure.** List the taxation years, reporting periods or fiscal periods covered by the disclosure. Include the date of the first inaccurate or incomplete statement, omission or act of tax evasion.

**Amount of duties owed.** Enter the total amount of duties owed (in Canadian dollars) or, if unknown, provide an estimate.

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#### 4 Required information (continued)

You must complete this part if you have any unreported foreign assets or income.

Date on which each account was opened
Date on which the first investments or transfers were made. List the origin and amount of each investment.
Balance of each account as at the date the voluntary disclosure file is opened. Specify the years for which portfolios and statements will be submitted.
Names of the foreign financial institutions involved and the countries in which they are located

#### 5 Certification

Sign the applicable section below.

<b>Applicant</b>	
I certify that this voluntary disclosure application meets the conditions, which I certify having read, that must be met in order for a disclosure to be accepted as a voluntary disclosure. Those conditions are set out in interpretation bulletin ADM. 4 and information circular IC00-1.	
I understand that my application will be disallowed if it does not meet all the conditions stipulated under the voluntary disclosure policy. In such an event, Revenu Québec may issue notices of assessment or notices of reassessment, impose penalties and charge interest, conduct a review or an audit, or even institute penal proceedings.	
I undertake to promptly provide Revenu Québec with detailed information about the facts mentioned above and the particulars of the duties payable, under each applicable fiscal law, in respect of each period covered by this voluntary disclosure application. Revenu Québec will therefore have my full and complete cooperation throughout the analysis, review and finalization of my voluntary disclosure application.	
I certify that the information provided in this form and in any enclosed documents is accurate.	
_____	_____
Signature of applicant	Date
<b>Authorized representative</b>	
I certify that, based on the information provided by the applicant, this voluntary disclosure application meets the conditions, which I certify having read, that must be met in order for a disclosure to be accepted as a voluntary disclosure. Those conditions are set out in interpretation bulletin ADM. 4 and information circular IC00-1.	
I understand that this application will be disallowed if it does not meet all the conditions stipulated under the voluntary disclosure policy. In such an event, Revenu Québec may issue notices of assessment or notices of reassessment, impose penalties and charge interest, conduct a review or an audit, or even institute penal proceedings.	
I undertake to promptly provide Revenu Québec with detailed information about the facts mentioned above and the particulars of the duties payable, under each applicable fiscal law, in respect of each period covered by this voluntary disclosure application. Revenu Québec will therefore have my full and complete cooperation throughout the analysis, review and finalization of this voluntary disclosure application.	
I certify that I am the authorized representative of the applicant and that the information provided in this form and in any enclosed documents is, to the best of my knowledge, consistent with that provided by the applicant.	
_____	_____
Signature of authorized representative	Date

## Information

### Individuals

Individuals who wish to make a voluntary disclosure can mail or fax their applications to one of the offices of the Direction principale des relations avec la clientèle des particuliers or to the Direction des divulgations volontaires (see the addresses and numbers below). Please note, however, that individuals who wish to make an anonymous disclosure, or whose disclosure concerns unreported foreign assets or income, are required to file their applications with the Direction des divulgations volontaires.

### Individuals in business and other persons

Individuals in business and other persons that wish to make a voluntary disclosure must file their applications with the Direction des divulgations volontaires.

Direction des divulgations volontaires	
	Direction des divulgations volontaires Revenu Québec Complexe Desjardins Secteur D246VE Montréal (Québec) H5B 1A4 Telephone: 514 287-3585 (extension 2878705) Toll-free: 1 888 830-8808 (extension 2878705) Fax: 514 287-8490
Direction principale des relations avec la clientèle des particuliers	
Montréal, Laval, Laurentides, Lanaudière and Montérégie	Direction principale des relations avec la clientèle des particuliers Revenu Québec C. P. 3000, succursale Place-Desjardins Montréal (Québec) H5B 1A4 Telephone: 514 864-6299 Toll-free: 1 800 267-6299
Québec City and other regions	Direction principale des relations avec la clientèle des particuliers Revenu Québec 3800, rue de Marly Québec (Québec) G1X 4A5 Telephone: 418 659-6299 Toll-free: 1 800 267-6299
Persons with a hearing impairment	
Montréal region	514 873-4455
Elsewhere	Toll-free: 1 800 361-3795

For more information, please contact one of the above offices or visit our website at [www.revenuquebec.ca](http://www.revenuquebec.ca).

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Name / Entity:

In order to complete your Voluntary Disclosure submission, please provide all information checked below:

- Taxpayer's physical address
- Taxpayer's mailing address
- Taxpayer's postal code
- Taxpayer's telephone number
- SIN, Business/GST/Acct Number, Partnership #, Trust Account #, License #, Other CRA Tax Identification #
- Type of return(s) involved: T1, T2, GST, T3 etc.

or

- Type of Information return(s) and/or slips involved: T3, T4, T1134, T1135 etc.
- Taxation year(s), fiscal period(s), reporting period(s) involved
- Type of omission: ie. business income, un-remitted GST, investment income, capital gain, pension income, over-claimed expenses etc.

Amount of the disclosure

Reason for the omission(s)

If a business is involved: indicate primary business activity

- An explanation of how you consider that each of the four validity conditions are met (IC00-1R3 paragraphs 31 to 42):

- Voluntary
- Complete
- Penalty
- One Year Past Due

- Form RC199: VDP Taxpayer Agreement Form - completed and signed.
- Form T1013: Authorizing or Cancelling a Representative - completed and signed (for individuals)
- Form RC59: Business Consent Form - completed and signed (for BN accounts)





Department of Finance Canada

**Protocol Amending the  
Convention between the  
Government of Canada and the  
Swiss Federal Council for the  
avoidance of Double Taxation  
with Respect to Taxes on  
Income and on Capital, done at  
Berne on 5 May 1997**

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**This electronic version of the Protocol Amending the Canada-Switzerland Tax Convention signed on October 22, 2010, is provided for convenience of reference only and has no official sanction.**

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**THE GOVERNMENT OF CANADA  
AND  
THE SWISS FEDERAL COUNCIL**

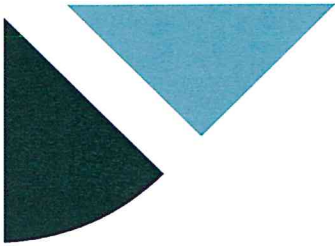
**Desiring** to conclude a Protocol amending the *Convention between the Government of Canada and the Swiss Federal Council for the Avoidance of Double Taxation with respect to Taxes on Income and on Capital, done at Berne on 5 May 1997* (the "Convention"),

**Have agreed** as follows:

**Article I**







## **Article XI**

Article 25 (Exchange of Information) of the Convention shall be deleted and replaced by the following provisions:

### **“Article 25**

#### **Exchange of Information**

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes covered by the Convention, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1.
2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the administration, assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to income or capital taxes. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the requested State authorizes such use.
3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:
  - (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
  - (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;





(c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (*ordre public*).

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person. In order to obtain such information, the tax authorities of the requested Contracting State, if necessary to comply with its obligations under this paragraph, shall have the power to enforce the disclosure of information covered by this paragraph, notwithstanding paragraph 3 or any contrary provisions in its domestic laws."

## **Article XII**

An Interpretative Protocol shall be added to the Convention with the following provisions:

### **"INTERPRETATIVE PROTOCOL**

**The Government of Canada**

**and**

**the Swiss Federal Council**

Have agreed at the signing of the Protocol amending the *Convention between the Government of Canada and the Swiss Federal Council for the Avoidance of Double Taxation with respect to Taxes on Income and*





on *Capital*, done at Berne on 5 May 1997 (the "Convention"), on the following provisions, which shall form an integral part of the Convention:

1. Regarding Article 11:

Subparagraph 3(c) shall not apply where all or any portion of the interest paid or payable on an obligation that is contingent or dependent on the use of or production from property is computed by reference to revenue, profit, cash flow, commodity price or any other similar criterion or by reference to dividends paid or payable to shareholders of any class of shares of the capital stock of a corporation.

2. Regarding Article 25:

(a) It is understood that an exchange of information will only be requested once the requesting Contracting State has pursued all reasonable means available under its internal taxation procedure to obtain the information.

(b) It is understood that the competent authority of the requesting State shall provide the following information to the competent authority of the requested State when making a request for information under Article 25 of the Convention:

(i) name and, to the extent known, other information, such as address, account number or date of birth, in order to identify the person(s) under examination or investigation;

(ii) the period of time for which the information is requested;

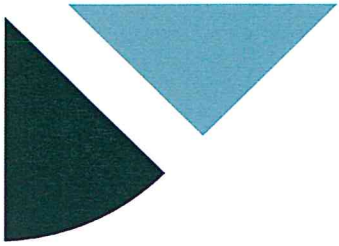
(iii) a statement of the information sought including its nature and the form in which the requesting State wishes to receive the information from the requested State;

(iv) the tax purpose for which the information is sought;

(v) the name and, to the extent known, the address of any person believed to be in possession of the requested information.

(c) It is understood that the standard of "foreseeable relevance" is





intended to provide for exchange of information in tax matters to the widest possible extent and, at the same time, to clarify that Contracting States are not at liberty to engage in “fishing expeditions” or to request information that is unlikely to be relevant to the tax affairs of a given taxpayer. While subparagraph 2(b) contains important procedural requirements that are intended to ensure that fishing expeditions do not occur, clauses (i) through (v) of subparagraph 2(b) nevertheless are to be interpreted in order not to frustrate effective exchange of information.

(d) Although Article 25 of the Convention does not restrict the possible methods for exchanging information, it shall not commit the Contracting States to exchange information on an automatic or a spontaneous basis.

(e) It is understood that in the case of an exchange of information, the administrative procedural rules regarding taxpayers’ rights provided for in the requested Contracting State remain applicable before the information is exchanged with the requesting Contracting State. It is further understood that this provision intends to provide the taxpayer a fair procedure and not to prevent or unduly delay the exchange of information process.”

### **ARTICLE XIII**



1. The Contracting States shall notify each other in writing through diplomatic channels once they have satisfied their domestic requirements for the entry into force of this Protocol. This Protocol shall enter into force on the date of the later of these notifications and its provisions shall have effect:

(a) in respect of taxes withheld at source, on amounts paid or credited on or after the first day of January of the year following the entry into force of this Protocol;

(b) in respect of other taxes, for taxation years beginning on or after the first day of January of the year following the entry into force of this Protocol.

2. Notwithstanding the provisions of paragraph 1,

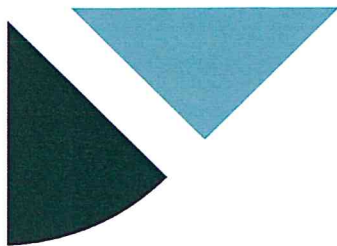




# UPDATE TO ARTICLE 26 OF THE OECD MODEL TAX CONVENTION AND ITS COMMENTARY

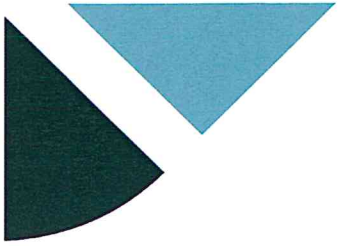
Approved by the OECD Council on 17 July 2012





- that the exchange of information in this case might be a difficult and delicate matter owing in particular to the provisions of subparagraph c) of paragraph 3 relating to business and other secrets.
- d) State A, for the purpose of verifying VAT input tax credits claimed by a company situated in its territory for services performed by a company resident in State B, requests confirmation that the cost of services was properly entered into the books and records of the company in State B.
  - e) *The tax authorities of State A conduct a tax investigation into the affairs of Mr. X. Based on this investigation the tax authorities have indications that Mr. X holds one or several undeclared bank accounts with Bank B in State B. However, State A has experienced that, in order to avoid detection, it is not unlikely that the bank accounts may be held in the name of relatives of the beneficial owner. State A therefore requests information on all accounts with Bank B of which Mr. X is the beneficial owner and all accounts held in the names of his spouse E and his children K and L.*
  - f) *State A has obtained information on all transactions involving foreign credit cards carried out in its territory in a certain year. State A has processed the data and launched an investigation that identified all credit card numbers where the frequency and pattern of transactions and the type of use over the course of that year suggest that the cardholders were tax residents of State A. State A cannot obtain the names by using regular sources of information available under its internal taxation procedure, as the pertinent information is not in the possession or control of persons within its jurisdiction. The credit card numbers identify an issuer of such cards to be Bank B in State B. Based on an open inquiry or investigation, State A sends a request for information to State B, asking for the name, address and date of birth of the holders of the particular cards identified during its investigation and any other person that has signatory authority over those cards. State A supplies the relevant individual credit card numbers and further provides the above information to demonstrate the foreseeable relevance of the requested information to its investigation and more generally to the administration and enforcement of its tax law.*
  - g) *Company A, resident of State A, is owned by foreign unlisted Company B, resident of State B. The tax authorities of State A suspect that managers X, Y and Z of Company A directly or indirectly own Company B. If that were the case, the dividends received by Company B from Company A would be taxable in their hands as resident shareholders under country A's controlled foreign company rules. The suspicion is based on information provided to State A's tax authorities by a former employee of Company A. When confronted with the allegations, the three managers of Company A deny having any ownership interest in Company B. The State A tax authorities have exhausted all domestic means of obtaining ownership information on Company B. State A now requests from State B information on whether X, Y and Z are shareholders of Company B. Furthermore, considering that ownership in such cases is often held through, for example, shell companies and nominee shareholders it requests information from State B on whether X, Y and Z indirectly hold an ownership interest in Company B. If State B is unable to determine whether X, Y or Z holds such an indirect interest, information is requested on the shareholder(s) so that it can continue its investigations.<sup>4</sup>*
  - h) *Financial service provider B is established in State B. The tax authorities of State A have discovered that B is marketing a financial product to State A residents using misleading information suggesting that the product eliminates the State A income tax liability on the income accumulated within the product. The product requires that an account be opened with B through which the investment is made. State A's tax authorities have issued a taxpayer alert, warning all taxpayers about the product and clarifying that it does not achieve the suggested*

<sup>4</sup> For cases where State B becomes aware of facts that call into question whether part of the shareholder information is foreseeably relevant, the competent authorities should consult and State B may ask State A to clarify foreseeable relevance in light of those facts, as discussed in paragraph 5.



**A**

**DECLARATION OF IDENTITY OF THE BENEFICIAL OWNER**

(Form A pursuant to Art. 3 and 4 CDB)

Account/securities account number:

Contracting partner:

\_\_\_\_\_

\_\_\_\_\_

Sub account:

\_\_\_\_\_

\_\_\_\_\_

The contracting partner hereby declares that the individual(s)/partnership(s)/legal entity (entities) listed below is/are the beneficial owner (s) of the assets deposited under the above relationship. If the contracting partner is also the sole beneficial owner of the assets, the contracting partner's details must be set out below:

Last name, first name (Company name)	Date of birth	Nationality	Address/ registered office	Country
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The contracting partner undertakes to automatically inform the bank of any changes.

Date

Signature

\_\_\_\_\_

\_\_\_\_\_

It is a criminal offence to deliberately provide false information on this form (Art. 251 of the Swiss Penal Code, document forgery; penalty: imprisonment for up to five years or a fine).

