Taxation and Investment in Canada 2015

Reach, relevance and reliability

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1.0 Investment climate

1.1 Business environment

Canada is a democratic federal confederation of 10 provinces, each with substantial powers, and three territories. The provinces are: Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island, Quebec and Saskatchewan; the territories are Northwest Territories, Nunavut and Yukon.

The head of state, Queen Elizabeth II (the Queen of the UK), is represented in Canada by a governor-general. At the federal level, Canada is a parliamentary democracy with a bicameral parliament. The prime minister and a cabinet of ministers heading the government are selected from the political party with the largest number of elected parliamentary seats. In addition, each province has its own legislative assembly. An understanding of Canada's business environment requires knowledge of both federal and provincial policies.

Canada's economy is diversified, with the service sector accounting for considerable output. The natural resources sector plays an important role in the economy, as it is responsible for more than 50% of total exports and is the main source of income in several provinces. Canada also has a large industrial base.

The Canadian economy is highly dependent on trade, especially with the US, and China has become an important trading partner.

Canada is a signatory to the North American Free Trade Agreement (NAFTA) and has negotiated separate free trade agreements with several other countries, including Chile, Costa Rica, Israel, Peru and the European Free Trade Association (EFTA) countries of Iceland, Liechtenstein, Norway and Switzerland. Canada and the EU have agreed in principle to a comprehensive economic and trade agreement, and a number of additional free trade agreements are under negotiation, including agreements with India and Japan. Canada has been making significant efforts to sign a broad range of free trade agreements.

Price controls

There are no broad controls on prices for goods and services in Canada, although companies that operate certain monopoly services, such as telephone and cable television services, are subject to price regulation by the Canadian Radio-television and Telecommunications Commission. Provincial power utilities submit rates for approval by the government.

Intellectual property

Federal laws govern patent, trademark and copyright matters. Patents, trademarks, copyrights and industrial designs are recognized in Canada. Trade secrets also are protected through provincial law.

The Canadian Intellectual Property Office (CIPO) is the agency mainly responsible for processing and registering claims of this nature. Applications for patents, trademarks, copyrights and industrial designs should be submitted to specialized units of the CIPO office or submitted online through the agency's website. CIPO is not an enforcement agency for those holding patents, trademarks or copyrights; preventing infringement or prosecuting infringement claims is solely the responsibility of those holding rights. Nevertheless, registration with the CIPO will help support legal actions.

A registered patent is valid for 20 years from the date on which the Canadian patent application was filed. Trade and service marks are registered for 15 years, but may be renewed for an additional 15-year term. Copyrights on written materials are protected for the life of the author, plus 50 years.

Canada has agreed to several international patent conventions, and its level of protection for patents and trademarks conforms to general standards in the US and Europe. Canada is a signatory to the Paris Convention on Intellectual Property, the Patent Cooperation Treaty and the World Intellectual Property Organization's treaties on copyright. Members of the World Trade Organization have been granted national treatment for copyright, patent, trademark and industrial design benefits, and for rights that previously were limited to signatories to the Bern, Paris and

Universal Copyright conventions. CIPO operates as an International Searching Authority and an International Preliminary Examining Authority under the Patent Cooperation Treaty.

Under Canadian law, licensers and licensees may sue for infringement of intellectual property rights. For patents, a licensee may sue a third-party infringer if there is a written agreement with the licenser. Without such an agreement, the licenser must sue. For copyrights, holders of nonexclusive rights may not sue. Most licensing contracts contain a clause that states how disputes between a licenser and a licensee will be settled.

1.2 Currency

The national currency is the Canadian Dollar (CAD).

1.3 Banking and financing

All banks in Canada are subject to federal regulation. Some other types of financial institutions, such as stock brokerages and investment banks, are regulated by the provinces.

1.4 Foreign investment

Investment Canada, a federal agency, must approve foreign investments, whether through a new venture or an acquisition, where the investment meets the review threshold of CAD 5 million for direct investments and CAD 50 million for indirect transactions (investors from WTO member countries benefit from significantly higher thresholds). Few applications are totally rejected. The Department of Canadian Heritage must approve investments in the cultural sector (e.g. filmmaking and distribution, book publishing, audio or video music recording production and distribution). Under NAFTA, special conditions exist for investments by US and Mexican companies.

There are some restrictions on investments, both inbound and outbound. Foreign investment in Canada—direct or via portfolio holdings—is limited in several key sectors, including banking, media and communications, cultural businesses (book publishing and selling, filmmaking and distribution), and air and rail transport. Restrictions on foreign investment in telecommunications have been eased.

Canadian federal and provincial governments offer a range of incentives to encourage companies to invest in capital equipment, to hire and train employees and to be more competitive in export and domestic markets. Support programs available in Canada include loan guarantees, funding, and tax incentives.

1.5 Tax incentives

A refundable investment tax credit (ITC) of up to 35% of qualified expenditures on scientific research and experimental development (SR&ED) is available for eligible Canadian-controlled private corporations (CCPCs). A nonrefundable ITC of up to 15% is available for a CCPC that is not eligible for the refundable ITC, and for a non-CCPC. Provincial incentives for SR&ED also are available. A wide range of federal and provincial tax incentives relating to various forms of media and environmental improvements are available.

Canada has a variety of other tax incentives for corporations. Manufacturing and processing companies may be eligible for provincial/territorial tax reductions, depending on the province/territory where they operate. Other reductions are available to CCPCs that are not available to a wholly owned subsidiary of a nonresident.

1.6 Exchange controls

No direct controls hinder the movement of capital or other payments into or out of Canada, although the federal government has strengthened its anti-money laundering regime. Cash transactions of CAD 10,000 or more and international electronic funds transfers of CAD 10,000 or more, among others, must be reported.

2.0 Setting up a business

2.1 Principal forms of business entity

The main legal forms of businesses are the following: the corporation, unlimited liability company, sole proprietorship, partnership, cooperative, trust and branch of a foreign corporation.

Most foreign companies choose to set up a Canadian subsidiary, in the form of a corporation. A corporation is a separate legal entity and, therefore, its rights and obligations are distinct from those of its shareholders. A subsidiary structure is convenient for management and accounting purposes, and it may be necessary when applying for various forms of federal government assistance. A subsidiary may be incorporated federally or in a particular province. Each jurisdiction has its own laws that determine the requirements for incorporation.

Formalities for setting up a company

Companies can be incorporated federally under the Canada Business Corporations Act (CBCA) or under any of 10 provincial corporate statutes. Although the laws are similar, the federal act is broader and provides protection for a company's name nationwide. Canadian law distinguishes between private and public companies, but the legal incorporation process is the same. Under the CBCA or a provincial act, a company can be formed by filing articles of incorporation and other documents.

Federal applications are filed with Corporations Canada, Industry Canada. Applications by fax, email or online (through the Industry Canada website) also are accepted. Incorporation is granted with a certificate, which indicates a start date for the business. Provincial registration is required for a business to operate in a particular province.

Articles of incorporation must indicate the name of the company, any restrictions on its business activities, its share structure, restrictions on the transfer of shares and the number of directors. Documentation requirements may vary, depending on the jurisdiction of incorporation.

A branch must be registered/licensed in each province in which it plans to conduct business.

Forms of entity

Requirements for a federally incorporated company

Capital: There is no minimum capital. Subscription may be in cash, property or recognition of a shareholder's past services. Noncash equity must be a fair equivalent determined by directors. No legal reserves are required for nonfinancial corporations.

Founders, shareholders: There is a minimum of one founder. No nationality or residence requirements apply. Shareholder meetings must be held in Canada unless all voting shareholders agree otherwise or the corporation's articles of incorporation permit shareholder meetings to be held outside Canada.

Board of directors: Under the CBCA, one-quarter of a board's members must be Canadian residents unless there are fewer than four directors, in which case one must be a Canadian resident. Residence rules vary for provincial incorporation.

Directors are not required to own shares in a corporation: Under the federal act, to conduct business, at least one-quarter of the directors at a board meeting must be Canadian residents. Board meetings may be conducted by telephone. Companies are not required to have a representative of labor on the board.

Management: There are no specific requirements for the composition of management.

Disclosure: Federally incorporated businesses must submit an annual information return to the Corporations Directorate of Industry Canada. Most companies must report yearly on the extent of their foreign ownership. Books must be kept at a company's head office in Canada.

Fees: The charge for a federal incorporation certificate is CAD 250 (CAD 200 if the application is submitted electronically). Fees for provincial incorporation vary. In Ontario, the fee is CAD 360 (CAD 300 if the application is submitted electronically). Additional fees may be payable. For federally incorporated companies, a certificate of amendment, certificate of continuation and a certificate of amalgamation each cost CAD 200.

Types of shares: Classes of shares may be voting or nonvoting, although articles of incorporation normally set out provisions for nonvoting shares to acquire a vote (if certain conditions are not fulfilled or in the event of a takeover proposal). Some shares may be issued with multiple voting rights. Shares must be registered. A corporation may acquire its own shares, but a publicly traded company must make its intentions known to the securities authorities and the public.

Control: A majority of voting shares usually constitutes control. Minority shareholders have appraisal rights and oppression remedies. Derivative actions by shareholders in the name of the company are legitimate. Further information on federal incorporation can be obtained from the Corporations Directorate. Each province has a department that administers consumer and commercial matters, including incorporation.

Other business structures

Foreign companies also may choose to start business in Canada through partnerships or joint ventures. Partnerships are not taxable entities in Canada, and income or losses (subject to specific rules in the tax legislation relating to partnerships) flow through to the partners and are taxable to them. If large losses are expected in the early years of a business, such a structure may permit the losses to be written off as expenses by a profitable partner. Joint ventures are an option, although they are not legal entities. Joint ventures are looked through for tax purposes. If joint ventures are formed, documentation should state the responsibilities of the participants and indicate that a full partnership is not intended; otherwise, a joint venture may be regarded as a partnership.

The specific facts and circumstances of the foreign company wishing to carry on business in Canada will dictate the optimal business structure. Issues to be considered include the laws of Canada and the foreign country, the tax position of the foreign company and the business structure already in place, among others.

Branch of a foreign corporation

For several reasons, including taxation and operating efficiency, most foreign companies in Canada choose to set up a subsidiary rather than a branch operation. However, foreign companies may choose to begin operations in Canada through a branch and subsequently incorporate.

A branch must be registered/licensed in each province in which it plans to conduct business. Having an office or a resident agent in the province qualifies as conducting business; merely soliciting orders through a travelling salesperson or by mail does not normally require registration. Registration/licence fees apply. The provincial authorities also require certain information about branch operations in their provinces, including the designation of an agent for service of process upon the company.

Branches are taxed at the same rate as subsidiaries and branch profits not reinvested in the Canadian branch are subject to a 25% tax, unless the rate is reduced under an applicable tax treaty.

2.2 Regulation of business

Mergers and acquisitions

Premerger notification requirements exist for large mergers in Canada. Companies can apply to the Competition Bureau for an advance ruling on whether a proposed merger falls within the acceptable standards spelled out in the Competition Act. If a transaction proceeds within a year after an advance approval has been issued, the bureau may not challenge it unless material information was not provided. If the bureau is uncertain about the effect of a merger, the director may issue a nonbinding opinion or indicate concerns that the companies should address.

Notification is necessary if control is being sought of a Canadian company and if the following conditions exist: all parties involved in the transaction have more than CAD 400 million in assets in Canada or more than CAD 400 million in total revenue in their Canadian operations. Additionally, the book value of the target's assets in Canada or revenue from sales in or from Canada generated from those assets must exceed CAD 86 million (for 2015; this value is reviewed annually).

In the case of share purchases, another threshold must be met for the notification requirement to apply: the acquisition must result in greater than 20% of the voting shares of a public company or 35% of the voting shares of a private company being held by the acquiring party.

If any of these thresholds is met, then the merging parties must provide information about the business to be created.

Takeovers by foreign companies also may be reviewed by Investment Canada, to which the Competition Bureau routinely passes its rulings on foreign acquisitions. Investment Canada is the successor to the Foreign Investment Review Agency, established when Canada was concerned about increasing foreign control of some industrial and resource sectors. While Investment Canada generally rejects few foreign investments, the Canadian government recently has indicated a tougher stance on the investment by foreign state-owned companies in Canada's oil sands.

Corporate reorganizations are subject to a broad range of rules, and the tax consequences will depend on the nature of the reorganization. Rollover provisions apply in many cases, including certain mergers and liquidations and transfers of assets to Canadian corporations in exchange for shares.

Monopolies and restraint of trade

Canada's Competition Act addresses abuse, or the potential for abuse, from dominant positions in commerce or through fraudulent schemes.

The Competition Act outlines a number of restrictive trade practices that the Competition Tribunal may take steps to prohibit. These include actions designed to prevent or impede competitors, customers or suppliers from entering or expanding in a market. Such tactics include purchasing significant portions of a distribution or supply channel, adopting unwarranted differences in pricing or specifications for the same product or purchasing inventories to maintain price levels. If the tribunal determines that a company, or a group of companies, has abused a dominant position, it can issue an order prohibiting the illegal activity or forcing the sale of part of a business to reverse the effect of the abuse. Criminal or civil charges also may be filed.

2.3 Accounting, filing and auditing requirements

Canadian GAAP requires a Publically Accountable Enterprise to use IFRS. A non-Publically Accountable Enterprise may use IFRS or Accounting Standards for Private Enterprises. Financial statements must be prepared annually.

3.0 Business taxation

3.1 Overview

Companies in Canada pay taxes to three levels of government: federal, provincial and municipal. The federal government has the authority to levy any type of tax; the provincial governments are restricted to levying direct taxes on persons that are located within their jurisdictions and the municipal governments generally are restricted to levying taxes on real estate.

Taxes may include income, capital, property, sales and excise taxes and some special taxes, such as royalties for resource exploitation. Currently, capital tax is levied only on financial institutions. Taxes on corporate income are levied at both the federal and the provincial government level. Combined tax rates vary, depending on the province where a business is located.

Both the federal and the provincial governments assess a tax on paid-up capital of financial institutions.

The federal government occasionally has imposed a surtax on corporate income tax, although currently there is no surtax—the 4% federal surtax was abolished as from 2008. There is no excess profits tax or minimum tax other than the corporate minimum tax in Ontario.

In addition to income and capital taxes, federal and provincial consumption tax on goods and services may apply.

As explained above in 1.5, Canada has a variety of tax incentives for corporations.

Canada, like many countries, has a resource royalty regime. See 3.8 below.

Canada Quick Facts for Companies	
Federal general corporate income tax rate	15%
Provincial/territorial general income tax rates	10%-16%
Branch tax rate	15% (federal plus applicable provincial rate)
Capital gains tax rate	50% taxable at the normal corporate rate
Basis	Worldwide
Participation exemption	Inbound dividends, yes/outbound, no
Loss relief	
− Carryforward	20 years for noncapital losses/indefinite for capital losses
− Carryback	3 years
Double taxation relief	Relief often is available
Tax consolidation	No
Transfer pricing rules	Yes
Thin capitalization rules	Yes
Controlled foreign company rules	Yes
Tax year	Fiscal year
Advance payment of tax	Monthly
Return due date	Within 6 months of fiscal year end
Withholding tax	
− Dividends	25%
− Interest	25%

− Royalties	25%
− Branch remittance tax	25%
Capital tax	No, other than on financial institutions
Social security contributions	Yes (federal/Quebec)
Real estate tax	Municipal level
Transfer tax	Municipal level
Goods and services tax	5% federal, rate varies for HST
Retail sales tax	Yes (in 3 provinces)

3.2 Residence

A corporation is resident in Canada if it is incorporated in Canada or if its central management and control is located in Canada.

3.3 Taxable income and rates

Resident companies generally are subject to federal tax on their worldwide income, regardless of whether the income is remitted to Canada, although a tax credit is available for foreign tax paid or payable to foreign jurisdictions on income derived from sources outside Canada. Certain income of controlled foreign affiliates is taxed on an accrual basis. Taxation also can arise in respect of investments in foreign investment entities and certain nonresident trusts. Nonresidents are taxed on certain types of Canadian-source income.

Nonresident companies that carry on business through a taxable branch in Canada are taxed at the general rates. Branches pay a special 25% tax on their Canadian earnings, after deducting federal and provincial income taxes and any net increase in capital invested in Canada. The branch tax rate is reduced for the branches of many foreign companies under tax treaties (e.g. the Canada-US treaty reduces the rate to 5% and provides a deduction for the first CAD 500,000 of earnings).

The federal corporate income tax rate is 15%. Provincial/territorial corporate income tax rates vary from jurisdiction to jurisdiction, and range from 10% to 16%. CCPCs may benefit from a reduced tax rate on certain small business income.

The highest combined (federal and provincial/territorial) general corporate tax rate for 2015 is 31% in Nova Scotia and Prince Edward Island, and the lowest is 25% in Alberta. Ontario’s 2015 combined rate is 26.5%. Some jurisdictions—Newfoundland and Labrador, Ontario, Saskatchewan and Yukon—tax manufacturing and processing (M&P) companies at lower rates, producing lower combined rates for that sector.

Combined federal and provincial/territorial corporate tax rates* (%)			
Jurisdiction	Corporate (general)	M&P income**	Small business income
Federal rates (alone)	15	15	11***
Alberta	10	10	3
British Columbia	11	11	2.5
Manitoba	12	12	0
New Brunswick	12	12	4
Newfoundland and Labrador	14	5	3

Northwest Territories	11.5	11.5	4
Nova Scotia	16	16	3
Nunavut	12	12	4
Ontario	11.5	10	4.5
Prince Edward Island	16	16	4.5
Quebec	11.9	11.9	8
Saskatchewan	12	10	2
Yukon	15	2.5	3

*Rates reflect those in force in April 2015

**On manufacturing and processing income not eligible for small business rates

***This rate is proposed to be reduced to 9% by 2019. The rate will decrease by 0.5% each year starting on 1 January 2016

Taxable income defined

Taxable income is the total of net income from investment, business and other activities and property disposals, plus one-half of net gains on the disposal of capital assets within or outside Canada.

Dividends

For private corporations, dividends received from a taxable Canadian corporation or a corporation resident in Canada are deductible in computing corporate income tax. However, dividends from nonconnected corporations are subject to an additional tax, which is refunded when the corporation pays out taxable dividends to its shareholders. Dividends received from a foreign company generally are subject to tax, but deductions are available in respect of dividends from foreign affiliates. Where the payer is not a foreign affiliate, a credit for withholding tax generally is available.

For public corporations, dividends received from a taxable Canadian corporation or a corporation resident in Canada are deductible for corporate tax purposes. Dividends received from a foreign company are subject to tax, but deductions are available in respect of dividends from foreign affiliates. Where the payer is not a foreign affiliate, a credit for withholding tax generally is available.

Dividends received by Canadian corporations from foreign affiliates are exempt if paid from exempt surplus, and taxable with deductions for underlying foreign tax and withholding tax if paid from taxable surplus. Exempt surplus generally relates to active business income earned by an affiliate resident in, and carrying on an active business in, a country with which Canada has signed an income tax treaty or tax information exchange agreement. A “hybrid surplus” category relates to certain capital gains realized by foreign affiliates. Dividends from hybrid surplus are 50% taxable.

Canadian public and private corporations must track dividends paid out of general-rate and low-rate income pools for purposes of determining the availability of enhanced dividend tax credits for Canadian resident individuals when amounts are paid out to them.

Deductions

All normal operating costs, from the purchase of supplies to wages, may be deducted in determining income, although special rules apply in some cases.

Reserves usually are not deductible for tax purposes unless they represent determinable liabilities or specifically are allowed as deductions.

Depreciation

Capital cost allowances generally are calculated on a declining balance. For buildings acquired after 1987, the rate is 4% (for buildings acquired after 18 March 2007, an additional 6% depreciation is available for M&P buildings, and 2% for other nonresidential buildings); for most machinery, 20%; for cars and mining equipment, 30%; for heavy construction and excavation equipment acquired after 1987, 30%; and for dies, jigs and patterns, 100%.

Some assets require straight-line depreciation. For example, leasehold improvements are written off on a straight-line basis over the term of the lease, plus one renewal period, if applicable. The minimum period for depreciation is five years. Assets may not be revalued.

More generous allowances are available for technology-related equipment. Assets that tend to become obsolete quickly (e.g. computers and telephone equipment) may be included in a separate class to ensure that a terminal loss may be claimed on disposal of all the property in the class. Limited life patents and related licenses may be written down based on the life of the asset. Depreciation rates of 30% apply to M&P machinery and equipment acquired after February 1992, including process-control computers.

Depreciation begins in the year the assets are available for use. For most assets, the "half-year" rule limits the capital cost allowance in the year of acquisition of an asset to one-half of the amount computed in accordance with the applicable rate. Companies may claim less than the maximum depreciation allowed in any year. Unclaimed amounts remain in the undepreciated balance that is the basis for depreciation in future years.

For any asset that is sold during the year, its class of depreciable property is reduced by the amount of the proceeds of the sale, but limited to its original cost. If assets in the pool are sold for more than the undepreciated capital cost, the amount of the excess, up to the original cost, is included in taxable income. Any proceeds exceeding the original cost are treated as a capital gain.

Exchange differences

Exchange differences generally are treated in the same manner as the underlying source. Thus, if income is capital in nature, then any exchange gain or loss will be considered capital in nature as well.

Losses

Noncapital (i.e. income or trading) losses may be carried back for three years and carried forward for 20 years. The deductible portion of the loss is limited to income for the year, minus other deductions. Capital losses may be carried back for three years and carried forward indefinitely.

3.4 Capital gains taxation

One-half of capital gains is included in taxable income for the year in which the gains are realized and is subject to the normal rate of tax. As noted above, capital losses may be carried back for three years or forward indefinitely, but generally may be deducted only against capital gains. Non-arm's length transactions are deemed to have been conducted at fair market value. There is no adjustment or inflation component for gains.

Gains from long- and short-term holdings receive the same tax treatment, as do different types of assets, such as real property and shares.

If Canadian shareholders exchange shares for cash in a merger or takeover, they are taxed on the capital gain. Many acquisitions are accomplished with a combination of cash and shares, permitting a tax-free rollover in some cases if an exchange of shares is chosen.

3.5 Double taxation relief

Unilateral relief

Foreign nonbusiness and business income tax paid in another country may be credited against Canadian tax on the same profits, but the credits effectively are limited to the amount of Canadian tax otherwise payable on the foreign income. Excess foreign business income tax paid that cannot be claimed may be carried over on a per-country basis and applied against foreign business income of other years. The excess credit may be carried back three years and carried forward 10 years. Excess foreign nonbusiness income tax may be claimed as a deduction in computing income.

Tax treaties

Canada has a broad income tax treaty network. Most of the treaties follow the OECD model and contain OECD-compliant exchange of information provisions. The circumstances will dictate the procedure for obtaining tax treaty benefits. In some cases, treaty benefits may be claimed on an income tax return. In other cases, such as in the case of withholding tax on investment income, the recipient must provide satisfactory residence information to demonstrate to the payer that reduced withholding is appropriate; other situations, such as payments for services rendered by a nonresident, will require advance application to the government for reduced withholding by a Canadian resident payer.

Canada Tax Treaty Network			
Algeria	Finland	Latvia	Serbia
Argentina	France	Lithuania	Singapore
Armenia	Gabon	Luxembourg	Slovak Republic
Australia	Germany	Malaysia	Slovenia
Austria	Greece	Malta	South Africa
Azerbaijan	Guyana	Mexico	Spain
Bangladesh	Hong Kong	Moldova	Sri Lanka
Barbados	Hungary	Mongolia	Sweden
Belgium	Iceland	Morocco	Switzerland
Brazil	India	Netherlands	Tanzania
Bulgaria	Indonesia	New Zealand	Thailand
Cameroon	Ireland	Nigeria	Trinidad & Tobago
Chile	Israel	Norway	Tunisia
China	Italy	Oman	Turkey
Colombia	Ivory Coast	Pakistan	Ukraine
Croatia	Jamaica	Papua New Guinea	United Arab Emirates
Cyprus	Japan	Peru	United Kingdom
Czech Republic	Jordan	Philippines	United States
Denmark	Kazakhstan	Poland	Uzbekistan
Dominican Republic	Kenya	Portugal	Venezuela
Ecuador	Korea (ROK)	Romania	Vietnam
Egypt	Kuwait	Russia	Zambia
Estonia	Kyrgyzstan	Senegal	Zimbabwe

3.6 Anti-avoidance rules

Transfer pricing

Under Canada’s transfer pricing rules, if goods or services are purchased from a nonresident parent or a “non-arm’s length company” at prices that differ from those that would have been set in arm’s length negotiations, upward or downward adjustments will be made to ensure the price charged reflects an arm’s length price.

The federal government requires taxpayers to maintain contemporaneous documentation for cross-border, non-arm’s length party transactions. If this documentation is not prepared, penalties may apply if adjustments exceed specified amounts. A special annual corporate information return requires detailed reporting of non-arm's length transactions between a Canadian company and each of the related foreign entities with which it transacts during the year. Each type of intercompany transaction (except for dividends and interest) must be classified under one of seven transfer pricing methods: comparable uncontrolled price, cost-plus, resale, profit split, transactional net margin, qualifying cost contribution arrangement and other. These methods must be identified, not only for goods bought and sold, but also for rents, royalties, license and franchise fees, commissions, services and other intangibles. A Canadian company must file one of these forms for each of the non-arm's length foreign parties with which the company transacts.

A taxpayer may obtain an advance pricing agreement (APA) from the tax authorities, specifying the pricing methodology for transactions with non-arm's length nonresidents. A nonrefundable user charge applies for each accepted APA request or renewal to cover estimated "out-of-pocket" costs, such as travel and accommodation expenses. Any amount paid in excess of actual costs will be refunded to the taxpayer. For small business APAs involving tangible goods and routine services, a nonrefundable flat fee of CAD 5,000 will be charged. A small business for this purpose is one with gross revenues of less than CAD 50 million or a proposed covered transaction of less than CAD 10 million.

Depending on the proposal, industry and transactions involved, the APA term usually is three to five years, but may vary depending on the facts and circumstances of the particular case. The taxpayer may only "roll back" to taxation years that are not under audit or for which a documentation request letter has not been received. Rollbacks are not permitted for small business APAs.

Thin capitalization

Canada's thin capitalization rules limit the deductibility of interest paid on a loan from a nonresident to a Canadian company. The rules generally apply to interest paid or payable to a nonresident creditor that is a 25% shareholder (alone or with non-arm's length persons). Interest on such debts is not deductible by a Canadian resident company to the extent that, at any time during a year, the loans exceed a 1.5:1 debt-to-equity ratio. If the 1.5:1 ratio is exceeded, there is a proportionate denial of otherwise deductible interest and the excess interest is deemed to have been paid as a dividend that is subject to withholding tax. Loans made by arm's length third parties are not affected unless the nonresident shareholder has lent money to a third party on the condition that it is given as a loan to the subsidiary. New "back-to-back loan" rules prevent what is perceived to be inappropriate avoidance of thin capitalization restrictions.

Controlled foreign companies

Canada's foreign affiliate (FA) rules include anti-deferral provisions known as the "foreign accrual property income" (FAPI) rules. Canadian residents must pay Canadian income tax on a current basis to the extent of their share of FAPI earned by a "controlled foreign affiliate" (CFA). Controlled foreign affiliate is broadly defined and an anti-avoidance rule may apply if shares are acquired or disposed of and the principal purpose is to avoid CFA status.

The FAPI rules apply to CFAs earning certain types of passive and "deemed passive" income. A CFA is an FA controlled by the Canadian entity. An FA is a nonresident corporation in which the Canadian entity holds at least a 10% equity percentage together with related persons, with at least 1% held by the Canadian entity itself. *De jure* control exists where one or more persons hold a sufficient number of shares carrying voting rights to constitute a majority in the election of the board of directors. Such control need not be exercised by the taxpayer alone, but also may be exercised by persons with whom the taxpayer does not deal at arm's length.

Attributed income is included in the tax year of the Canadian entity in which the year that income is earned by the CFA ends. Canada provides an effective credit for any tax paid by the CFA in respect of the FAPI, and the FA rules allow a deduction from income for dividends paid out of FAPI that previously was included in income.

There are no "black" or "white" lists of countries for the purpose of determining whether income is attributable to the shareholder as FAPI. However, where Canada has asked a particular country to enter into a tax information exchange agreement (TIEA) or begun negotiations for a TIEA with a particular country, and the agreement is not concluded within 60 months of such request, active income earned in that particular country will be deemed to be FAPI of the Canadian shareholder.

"Foreign affiliate dumping" rules introduced introduced in 2012 and revised in 2014 negatively affect investments made in shares or debt of foreign affiliates in certain cases. As a consequence of these rules, where a Canadian resident company that is controlled by a nonresident parent corporation makes an investment in the shares or debt of a foreign affiliate, whether or not the affiliate is a controlled foreign affiliate, the paid-up capital of the Canadian company or a related Canadian company may be reduced or a dividend may be deemed to have been paid by the Canadian company to the nonresident parent. Any such dividend will be subject to withholding tax.

General anti-avoidance rule

The general anti-avoidance rule (GAAR) is a far-reaching provision that operates in addition to the many specific anti-avoidance provisions. Where the GAAR is applicable, the tax consequences of a transaction will be determined, as is reasonable in the circumstances, to deny the tax benefit that otherwise would result. Three requirements must be established in order to permit the application of the GAAR:

1) A tax benefit must have resulted from a transaction;
2) The transaction must be considered an avoidance transaction, in the sense that it cannot be said to have been reasonably undertaken primarily for a bona fide purpose other than to obtain a tax benefit; and
3) The avoidance transaction must be considered abusive, in the sense that it cannot be reasonably concluded that a tax benefit would be consistent with the object, spirit or purpose of the provisions relied upon by the taxpayer.

The GAAR applies in a domestic and an international context, and also applies to Canada's tax treaties.

3.7 Administration

Tax year

The tax year of a corporation is its fiscal period, which is the period for which the accounts of the business ordinarily are made up. A taxation year may not exceed 53 weeks.

Filing and payment

Tax returns are due within six months of the end of a company's tax year.

In addition to federal tax, provincial/territorial tax is calculated by allocating taxable income to the province in which a company has a permanent establishment. Considerations in this calculation include the revenue and salaries attributable to each province/territory in relation to a company's total revenue and salaries. Each provincial tax rate then is applied to income relating to the portion of business done in that province.

Alberta and Quebec require taxable companies to file provincial returns separately from their federal returns. For the other provinces and territories, a separate return is not required.

Federal and provincial tax authorities require monthly or other periodic installment payments on account of the current year tax liability. Final tax payments generally are due within two months of year end. Alberta and Quebec collect their own corporate taxes. The federal government collects taxes for the other provinces and territories.

Consolidated returns

Consolidated returns are not permitted; each corporation is required to file a separate return.

Statute of limitations

Tax audits may be carried out within the normal reassessment period (three years after the mailing of the notice of original assessment for an individual or a Canadian-controlled private corporation, and four years after the mailing of the notice of original assessment for other corporations). During this time, assessments and reassessments can be made. The normal reassessment period can be extended in cases including circumstances of taxpayer misrepresentation attributable to neglect, carelessness, willful default or fraud. The taxpayer can file a waiver to extend the normal reassessment period. In the case of individuals, in certain circumstances, the taxpayer can apply within 10 years of the taxation year for a reassessment.

Tax authorities

Taxes in Canada are administered by the following:

- Canada Revenue Agency (CRA);
- Provincial authorities; and
- Canada Border Services Agency (CBSA).

The CRA is the main collector of income taxes, and the CBSA is responsible for national security, crisis management, monitoring cross-border traffic, applying customs rules and levying and collecting duties.

Most provinces have entered into income tax collection agreements with the federal government, under which provincial income tax is administered and collected in conjunction with federal income tax, and taxpayers file a combined federal and provincial tax return. Quebec has not entered into such an agreement for either personal or corporate taxes, and Alberta has not entered into such an agreement in respect of corporate taxes.

Rulings

Subject to specific exclusions, the federal tax authorities will issue a written statement on how they will apply a specific section of the tax law to a definite transaction that has not yet taken place. Once issued, the ruling is binding, provided all the facts—which remain confidential—have been presented by the taxpayer to the authorities.

3.8 Other taxes on business

Royalty payments for exploiting natural resources (oil and gas, minerals and timber) are common in Canada. Federal royalty payments are collected on resource production on federal Crown lands, including the northern territories and offshore locations. Provincial resource royalties and taxes are collected on resource production on provincial Crown lands. All provinces charge for timber rights at varying rates.

4.0 Withholding taxes

4.1 Dividends

Dividends paid to another Canadian corporation generally are exempt. Dividends paid by a Canadian resident corporation to nonresident persons are subject to a 25% tax, unless the rate is reduced under an applicable tax treaty.

4.2 Interest

Interest paid by a Canadian resident to a nonresident generally is subject to a 25% tax, unless the rate is reduced under a tax treaty. Certain exemptions apply, including an exemption for nonparticipating interest paid to arm's length foreign lenders. New back-to-back loan rules prevent what is perceived to be inappropriate use of this exemption.

4.3 Royalties

Royalties paid by a Canadian resident to a nonresident are subject to a 25% withholding tax, unless the rate is reduced or an exemption applies under an applicable tax treaty. Copyright payments made in respect of literary, dramatic, musical or artistic works are exempt from withholding tax under domestic legislation. The domestic law exemption does not apply to payments for a right in, or for the use of, motion picture films or films, videotapes or other means of reproduction for use in connection with television.

4.4 Branch remittance tax

Profits not reinvested in the Canadian branch are subject to a 25% tax, unless the rate is reduced by treaty.

4.5 Wage tax/social security contributions

The federal government manages social programs—primarily Employment Insurance (EI) and the Canada Pension Plan (CPP)—that require recordkeeping and payments on behalf of employees. (Quebec administers the Quebec Pension Plan, which applies instead of the CPP in Quebec.)

Employees and employers must pay into the EI fund, which temporarily compensates those who are out of work under certain conditions. For 2015, employee premiums are CAD 1.88 for each CAD 100 earned, with a maximum contribution of CAD 930.60. Employer contributions are 1.4 times the employee level, or CAD 2.63 for each CAD 100 earned, to a maximum contribution of CAD 1,302.84. Part-time and casual workers also are liable for EI premiums and eligible for EI benefits. Certain small businesses are exempt from premium payments.

Contributions are made by employees and employers to the CPP. The employee contribution rate is 4.95%. Employers match these contributions, producing a combined 9.9% rate for 2015. Maximum pensionable earnings are CAD 53,600. The maximum employer and employee contribution to the plan is CAD 2,479.95; the maximum contribution by self-employed workers is CAD 4,959.90. CPP payments on retirement are based on the length of time and the amount an individual contributed to the CPP over the years.

Personal income tax on employment income is required to be withheld by the employer and remitted to the tax authorities. The general rule requires that the employer remit the tax withheld by the 15th day of the month following the date of withholding. However, there are different requirements for large employers and for small employers.

Manitoba, Newfoundland, the Northwest Territories, Nunavut, Ontario and Quebec impose a formal payroll tax (called by different names in these jurisdictions) ranging from 1.95% to 4.26% of the annual gross wages, salary and other remuneration paid by an employer. In all provinces and territories, companies must contribute to provincial Workers Compensation Boards, which provide insurance benefits for workers injured on the job.

4.6 Other

Depending on the facts, certain rental payments and management fees may be subject to a 25% withholding tax, unless the rate is reduced under a tax treaty.

5.0 Indirect taxes

5.1 Goods and services tax

A federal value added tax (Goods and Services Tax (GST)) is levied on the provision of most goods and services in Canada. The province of Quebec levies a value added tax (Quebec Sales Tax (QST)) on the provision of most goods and services in Quebec. The QST generally is harmonized with the GST but is administered separately by the province.

The provinces of New Brunswick (NB), Nova Scotia (NS), Newfoundland (NL), Ontario (ON) and Prince Edward Island (PEI) have a fully harmonized sales tax (HST) with the federal government under a single federal administration (the provincial sales tax (PST) regime still applies, however, to certain insurance premiums in ON).

The provinces of British Columbia (BC), Manitoba (MB) and Saskatchewan (SK) levy and separately administer a more traditional single-incidence retail sales and use tax on the provision (or use) of most goods and certain services purchased or consumed in the specific province. The province of Alberta does not levy a PST.

Nonresidents may need to register to collect and remit GST/HST, QST or PST, depending on their sales to and level of activities within the relevant tax jurisdiction.

In many cases (but not all), nonresidents may be able to purchase exported goods and services on a tax-free basis, i.e. zero-rated for GST/HST or QST purposes and exempt for PST purposes. The export status generally is applicable to goods shipped out of the tax jurisdiction or certain types of services or intangible property supplied to nonresidents.

Taxable supply

While GST/HST is levied on the provision of most goods and services in Canada, some are GST/HST zero-rated (i.e. no tax is collected), such as basic groceries, long-term residential leases, health services and domestic financial services. The tax generally is applied to imported goods, based on their duty-paid value, but not to imported services and intangible property such as patents and trademarks.

QST generally is harmonized with the GST/HST.

PST applies on the provision (or use) of most goods (such as furniture, equipment, printing, etc.) and certain services (equipment repairs, telecommunications, etc.) in the specific province. Some provinces have substantially expanded their sales tax bases to include such services as legal, engineering, architectural services, etc. Computer software and modifications to it also are widely taxable in the PST provinces.

Rate

The federal GST rate is 5% and the HST rate is 13% for goods and services supplied in the provinces of NB, NL (NL has proposed a 2% increase as from 2016) and ON, and 14% for PEI and NS (NS will reduce its rate to 13% on 1 July 2015). The QST rate is 9.975%. The PST general rates are as follows: SK, 5%; MB, 8%; and BC, 7%.

Registration

GST/HST registration generally is required for every person engaged in a commercial activity in Canada. Registration is not required for small suppliers (i.e. persons who have under CAD 30,000 in worldwide taxable sales) or nonresidents of Canada who do not "carry on business" in Canada.

QST registration generally is required for every person engaged in a commercial activity in Quebec, but is not required for small suppliers or nonresidents of Quebec who do not "carry on business" in Quebec.

The vendor registration rules for each PST province vary and some provinces have “reach out” provisions to require registration by out-of-province vendors selling taxable property into the province.

Grouping

There is an election available to closely related groups of Canadian registered corporations and partnerships, with “closely related” meaning an ownership threshold of 90%. This election permits the noncollection of GST/HST on intercompany charges to eliminate the cash flow impact of charging GST/HST and then recovering input tax credits, but only where the full input tax credits would otherwise be available.

Another election is available to exempt an intercompany charge between closely related corporations from GST/HST in cases in which there is a closely related listed financial institution (e.g. a bank, trust company, insurer, securities broker, lending company, etc.). This exemption deems the transaction between the electing entities to be treated as a financial service (which hampers the supplying entity’s input tax credit entitlement) and deems the parties to the election to be financial institutions (which imposes special additional compliance obligations).

The QST rules mirror the GST/HST elections.

The PST legislation has some specific relieving provisions for intercompany transfers of tax-paid assets, to reduce the application of PST to the same assets transferred within the group. Other than reseller exemptions available generally, there typically are no other specific related party exemptions or relief.

Invoicing

The GST/HST, QST and PST can be invoiced on either a tax-included or a tax-extra basis. However, the basis must be presented clearly to the purchaser on their invoice. More importantly, there are strict information guidelines for GST/HST and QST purposes as to the presentation of date, vendor name, registration numbers, tax amounts, etc., which are required to enable business purchasers to recover their eligible input tax credits.

Filing

Businesses with annual taxable supplies in Canada of more than CAD 6 million (measured in combination with their associated entities) must file their GST returns and tax payments monthly. Businesses (and all members of their associated group) with combined taxable supplies of CAD 1.5 million to CAD 6 million a year may file their returns and payments quarterly. Businesses with taxable supplies of less than CAD 1.5 million may file annually and remit tax installments quarterly. Businesses (and all members of their associated group) with combined taxable supplies of less than CAD 30,000 are not required to register for the GST/HST or QST, but can do so voluntarily if engaged in any taxable-type activities.

For GST/HST and QST monthly or quarterly filers, the return is due on the last day of the month following the end of the reporting period. For an annual GST/HST or QST filer, the return is due three months after the end of the fiscal year for most annual filers (six months after year-end for annual-filing listed financial institutions). Quarterly installments are required by all annual filers.

For SK and MB PST filers, the return is due on the 20th day of the month following the end of the reporting period. Under the ON PST system, the PST return in respect of certain insurance premiums sold in ON is due on the 23rd day of the month following the end of the reporting period. In BC, the return is due at the end of the month following the reporting period.

Payment/refunds

Payment is due with the return.

Businesses remit the GST/HST based on the value added in bringing their goods or services to market. The value added is the difference between the selling price and the cost of materials and purchased services, excluding the input of the company’s employees. Each registered supplier of taxable goods or services collects the tax from the purchaser and passes it on, periodically, to the CRA. Generally, suppliers deduct from the GST/HST and QST collected any of the corresponding GST/HST or QST they have paid on their own purchases, known as input tax credits. Refunds are made if more tax was paid than was collected. The GST/HST generally is tracked and reported separately from the QST. However, Quebec-based businesses file both taxes on a joint return showing separate sections for each tax.

For an annual GST/HST or QST filer, quarterly installments are required. The PST filing frequency (and payment) typically is monthly, with very low tax threshold amounts requiring less frequent filing and remittances.

Penalties

In addition to interest for late paid amounts, the federal and provincial tax authorities each impose a range of penalties based on the nature of the compliance infraction, ranging from nominal fixed penalties for failure to submit returns when due, to a percentage of tax payable on late remittances, to gross negligence penalties intended to be higher and thus more punitive.

5.2 Capital tax

There is no federal or provincial general corporation capital tax. (However, a number of provinces and the federal government do impose a capital tax on financial institutions. The territories do not impose this tax.)

5.3 Real estate tax

Municipal authorities levy taxes on the occupation of real property. These taxes are deductible in calculating the corporate tax liability.

5.4 Transfer tax

All provinces impose registration fees or taxes on the transfer of real property.

5.5 Stamp duty

Canada does not impose a stamp duty.

5.6 Customs and excise duties

Customs duties depend on the type of goods and where the goods were made. Free trade agreements, such as the NAFTA may eliminate duties. Canada’s Customs Tariff is based on the World Customs Organization's Harmonized Commodity Description and Coding System.

Federal excise taxes apply to the manufacturer’s selling price on a variety of items, including cigarettes and tobacco, petrol and alcoholic beverages. Provinces also tax fuel and petrol, tobacco and alcohol. Diesel fuel, propane and aviation and marine fuel are taxed at lower rates than petrol for automobiles.

6.0 Taxes on individuals

Individuals pay federal and provincial/territorial taxes on income. Personal income tax rates are progressive and vary by jurisdiction.

Canada Quick Tax Facts for Individuals	
Income tax rates (federal)	Progressive to 29%
Provincial/territorial tax rates	10%-25.75%
Capital gains tax rates	50% taxable at the normal individual rates
Basis	Worldwide income
Double taxation relief	Relief often is available
Tax year	Calendar year
Return due date	30 April or 15 June
Withholding tax	
− Dividends	25%
− Interest	25%
− Royalties	25%
Net wealth tax	No
Social security	Yes (federal/Quebec)
Inheritance tax	No
Real estate tax	Municipal level; GST/HST may apply
Goods and services tax	5% federal, varies for HST/provincial

6.1 Residence

An individual is resident in Canada if he or she resides in Canada or is ordinarily resident in Canada. Nonresidents of Canada who are present in the country for 183 days or more in a calendar year generally are considered residents and liable for Canadian income tax on their worldwide income. Except for in Quebec, both residence statuses (i.e. resident versus nonresident) may be overridden by a tax treaty.

6.2 Taxable income and rates

Canadian residents are taxed at the federal and provincial levels on their worldwide income. Certain income of controlled foreign affiliates is taxed on an accrual basis. Taxation also can arise in respect of investments in foreign investment entities and certain nonresident trusts. Nonresident individuals are taxed on Canadian-source income and on gains from the disposition of taxable Canadian property. Additionally, there are special deemed disposition rules that apply when an individual ceases or assumes Canadian residency.

Taxable income for Canadian residents is based on worldwide income, including income from wages and salaries, pensions and annuities, EI benefits and interest and dividend income.

Fifty percent of capital gains realized is includible in an individual's income. However, a lifetime capital gains exemption is available for up to CAD 813,600 of gains on the disposition of qualified farm or fishing property (proposed to increase to CAD 1 million in respect of dispositions made as from 21 April 2015) or CAD 813,600 (indexed annually) for qualified small business corporation shares, and often no tax is paid on the gain from selling a principal residence.

Old-age security benefits provided to high-income earners are reduced under a formula as taxable income increases.

Excluded from the tax base are gifts, inheritances, lottery winnings, child tax benefits and veterans' pension payments.

Deductions and reliefs

Payments into Registered Retirement Savings Plans (RRSPs), which are limited by federal government regulation, are the main tax exemption for most Canadians. Contributions are limited to 18% of earned income of the prior year, with a maximum contribution of CAD 24,930 for the 2015 taxation year.

Certain employment expenses (e.g. expenses relating to cars, tools and home offices) may be deducted from personal income, but the amounts are restricted. Medical costs not covered by the healthcare system also may be eligible for a tax credit, subject to certain restrictions. Credits may be available to cover education costs and the care of a disabled person.

Subject to certain restrictions, deductions or nonrefundable tax credits also are granted for certain moving expenses, union and professional dues, child care expenses, charitable and political donations and investment carrying charges. Tax credits may be available for age, spouses and certain dependents.

Since dividends are paid after corporate taxes, individual taxpayers may claim a tax credit on dividends. Dividends from taxable Canadian companies are grossed up before being included in taxable income. The dividend tax credit then reduces a taxpayer's basic federal tax on the grossed-up dividend income. There are two levels of dividend gross-up and tax credit, depending on the nature of the shares held and the income earned by the paying corporation.

Rates

The provinces and territories, other than Quebec, levy tax on the federal tax base, and the federal government is the tax collector for every jurisdiction except Quebec.

Personal income tax rates are progressive and vary by jurisdiction. Federal rates are progressive up to 29% (or 24.215% for residents of Quebec). Provincial/territorial tax rates also are progressive, with the maximum rate for 2015 in the range of 10% to 25.75%. Ontario also imposes a surtax of up to 56%.

There are no additional taxes on personal capital (i.e. capital taxes), net worth or property.

6.3 Inheritance and gift tax

There is no formal inheritance tax in Canada. However, a person who gives property as a gift is deemed to dispose of the property for proceeds equal to its fair market value. There is no formal estate tax, but a deceased taxpayer is deemed to have disposed of all property owned immediately before the time of death at fair market value.

6.4 Net wealth tax

Canada does not impose a net worth/wealth tax.

6.5 Real property tax

Municipal authorities levy taxes on the occupation of real property.

6.6 Social security contributions

Both the employer and the employee generally are required to make contributions on a monthly basis. The employer collects the employee portion of the contribution and remits both the employer and the employee portions to the tax authorities. Self-employed individuals are required to pay both the employer and the employee CPP contribution amounts. See above under 4.5.

6.7 Other taxes

None

6.8 Compliance

Individuals must adopt a calendar year.

The deadline to file an individual tax return and pay the outstanding tax liability is 30 April. Individuals and their spouses or common law partners that operate a business or profession have their filing deadline extended to 15 June; however, the tax liability is still due by 30 April.

There are no family income tax returns in Canada. Family members each must compute their income tax liability separately. However, attribution rules may require an individual to report income earned by a family member from property transferred by the former to the latter.

Individuals employed by companies or other organizations usually have personal taxes deducted from their pay and remitted to the government. Those who are self-employed and those with significant income not subject to employer withholding usually must make quarterly payments based on estimated income.

7.0 Labor environment

7.1 Employee rights and remuneration

Responsibility for labor law in Canada is shared between the federal and provincial governments. Federal legislation applies to rail and air transport, ports and airports, radio and television broadcasting, banking and operations of most federal Crown corporations. Federal labor legislation also prevails in the sparsely populated Northwest Territories, Nunavut and Yukon. For most companies, the provinces are responsible for setting key employment standards, such as the minimum wage and vacation pay. They also are responsible for workplace safety and insurance programs.

The main federal law is the Canada Labour Code, which deals with labor standards, employee safety and industrial relations. The Canadian Human Rights Act lists employment practices that are prohibited, including various kinds of discrimination. The Non-Smokers Health Act controls smoking in workplaces under federal jurisdiction. EI and the CPP are two federal programs that require compliance from every organization operating in Canada. (In Quebec, the CPP is replaced by the Quebec pension plan.)

Equality-of-work provisions in the federal Employment Equity Act and the Charter of Rights and Freedoms are designed to promote the hiring and advancement of women, aboriginal people, visible minorities and the disabled. Companies in federally regulated industries must regularly report to the government on the status of their employment-equity programs.

The provinces are responsible for administering laws that set minimum conditions of employment.

Working hours

The Canada Labour Code sets the normal work week at 40 hours, with five eight-hour work days. Overtime of up to eight hours a week is permitted and must be paid at a rate of at least time-and-a-half. Some union contracts provide for double-time payments, or more in certain circumstances. Provincial laws are comparable to those in the federal code.

7.2 Wages and benefits

The provincial governments and the territories set minimum wages. Rates for federally regulated workplaces match those of the provincial jurisdictions. The following are the minimum hourly wages on 1 May 2015: CAD 10.20 in Alberta; CAD 10.25 in British Columbia; CAD 10.70 in Manitoba; CAD 10.30 in New Brunswick; CAD 10.25 in Newfoundland and Labrador; CAD 10.00 in the Northwest Territories; CAD 10.60 in Nova Scotia; CAD 11.00 in Nunavut; CAD 11.00 in Ontario; CAD 10.35 in Prince Edward Island; CAD 10.55 in Quebec; CAD 10.20 in Saskatchewan; and CAD 10.86 in the Yukon. There are variations in minimum wages in some provinces. In Ontario, for example, anyone serving liquor may be paid less than the minimum wage. Some rates are scheduled to increase later in 2015.

Pensions

All persons employed in Canada and their employers, except in Quebec, must contribute to the CPP. Coverage in Quebec is provided through the Quebec Pension Plan, which is similar to the federal plan. Companies also may have private pension plans.

Social insurance

All Canadians are covered by public health insurance to provide medical and hospital care. Many employers provide for supplemental healthcare, including prescription drugs and dental plans. Workers also are insured against accidents through provincial worker-compensation programs.

Nearly all Canadian workers and their employers must contribute to the federal EI fund, which provides income to workers who have lost their jobs.

Other benefits

Provincial laws stipulate mandatory benefits, including holidays. In Ontario, workers get a minimum of two weeks off with pay for each full 12 months worked, or a minimum of 4% of total earnings instead of time off for those who have worked less than 12 months. In practice and under union contracts, holiday periods are extended to three, four or five weeks, depending on the length of employment. The provincial acts also set the dates for public holidays; Ontario has ten.

The Canada Labour Code provides for 17 weeks of unpaid maternity leave for a woman who has worked for six months, and attendant laws prevent her dismissal while on leave. Additionally, parental leave to care for the baby may be taken for up to 37 weeks (combined maternity and parental leave cannot exceed 52 weeks). Provincial laws provide similar rights. In Ontario, for example, pregnant women may take unpaid leave of up to 17 weeks and new parents each may take unpaid leave of up to 37 weeks, depending on the circumstances. In addition, EI provides maternity/parental benefits for up to 50 weeks. The Quebec Parental insurance Plan provides maternity/parental benefits in Quebec.

7.3 Termination of employment

The Canada Labour Code requires that employees be given written notice at least two weeks prior to dismissal. The amount of severance will depend on the length of employment. The Code stipulates that employees who have been on the job for at least 12 months are entitled to a severance payment of two days of pay for each year worked, with a minimum of five days' pay and no maximum. Companies often pay more than the requisite five days to avoid undermining workplace morale and to reduce the risk of legal action. No severance pay is required for dismissal for just cause (such as dishonesty). Provincial laws governing dismissal are comparable to those in the federal Code, although eligibility and notice periods vary. The common law may provide for additional termination payments.

To avoid legal repercussions, whether a workplace is unionized or not, employers are advised to help employees whose work is unsatisfactory to achieve established standards. This requires not only time, but also documentation, in the event of a lawsuit. It is especially important to document unsatisfactory performance in unionized workplaces, because unions often take dismissal cases to provincial labor tribunals.

For large-scale layoffs or plant closings, it is advisable to give as much notice as possible—up to a year or more—to avoid public and political disfavor and to work with the government and other agencies to find alternative employment for workers. If more than 50 employees are to be fired or permanently laid off within a four-week period, the Code requires that 16 weeks' notice be given to any union representing affected workers and to relevant government agencies. Provincial laws governing large-scale dismissals are similar to those in the Code.

7.4 Labor-management relations

Unions are strong in the public sector. Private-sector unions in Canada historically have been organized on an industry basis.

Collective-bargaining agreements set working conditions and pay rates in unionized workplaces. Contracts typically cover hourly rates of pay, overtime pay rates, vacation time, pension entitlements and other benefits, seniority entitlements when job changes are required, terms under which employees are laid off or choose to take early retirement and cost-of-living allowances to reflect inflation rates. Most agreements cover three-year periods, but some are shorter and some longer.

Bargaining generally is conducted on a company-by-company basis, even though in some industries most of the contracts may expire at the same time. Ordinarily, negotiations are conducted between a union bargaining committee and representatives of corporate management. After a tentative agreement has been reached, it must be approved by a majority of the workers. Strikes and lockouts are illegal in Canada during the term of a collective agreement.

Appointees of either the federal or the provincial labor ministers use tools such as conciliation, arbitration and nonbinding arbitration to resolve labor conflicts. The federal government can enact back-to-work legislation, but this is rare—such as for a strike that could shut down public transport. A recent trend among unionized suppliers of industrial parts has been to negotiate new contracts before old ones expire, so customers are assured of uninterrupted shipments.

7.5 Employment of foreigners

Foreign-based companies may send employees to Canada to work on a short-term basis by applying to the nearest embassy or consulate. Work permit and other government requirements should be investigated in advance. NAFTA provides a streamlined process for citizens of the US and Mexico to enter Canada temporarily as investors, business visitors, professionals or intracompany transferees.

An intracompany transferee from the US may enter Canada with an identifying letter from the Canadian employer, plus additional documentary support (which will depend on the subcategory of application, i.e. specialized knowledge, senior manager or executive), to be presented to immigration officials in Canada. Approvals generally are granted at the port of entry. Mexican citizens require visas to enter Canada, so they must apply for their work permit approval at the consulate before they can enter Canada.

The process for employees from other Western industrial countries will depend on whether Canada requires a visa for entry from the particular country. Citizens of non-visa-requiring countries may apply at the port of entry and, if eligible, will be instantly issued their work permit. Applicants from visa-requiring countries must apply at a visa office, and the processing time varies from office to office. The shortest processing time for work permits filed at a consulate currently is four weeks.

Employment authorizations under the intracompany transferee category are employer-specific, so a transferee may not move to another company in Canada. Initial work permits under this category can be—and often are—issued with a three-year validity, but can cover up to five years for the specialized-knowledge subcategory and seven years for the senior managerial and executive categories.

Foreign nationals who want to work in Canada often are required to obtain a work permit and to have an offer of employment, depending on the circumstances. Other requirements may exist as well, and such individuals should investigate these requirements in advance. If Canadian companies want to hire a non-Canadian for a job, in some cases they must prove that there is no Canadian or permanent resident available for the position. This can be time-consuming, since it usually involves running advertisements and interviewing candidates.

8.0 Deloitte International Tax Source

The Deloitte International Tax Source (DITS) is a free online database that places up-to-date worldwide tax rates and other crucial tax information within easy reach. DITS is accessible through mobile devices (phones and tablets), as well as through a computer.

Connect to the source and discover:

A database that allows users to view and compare tax information for 65 jurisdictions that includes –

- Corporate income tax rates;
- Historical corporate rates;
- Domestic withholding tax rates;
- In-force and pending tax treaty withholding rates on dividends, interest and royalties;
- Indirect tax rates (VAT/GST/sales tax); and
- Information on holding company and transfer pricing regimes.

Guides and Highlights – Deloitte's Taxation and Investment Guides analyze the investment climate, operating conditions and tax systems of most major trading jurisdictions, while the companion Highlights series concisely summarizes the tax regimes of over 130 jurisdictions.

Jurisdiction-specific pages – These pages link to relevant DITS content for a particular jurisdiction (including domestic rates, tax treaty rates, holding company and transfer pricing information, Taxation and Investment Guides and Highlights).

Tax publications – Global tax alerts and newsletters provide regular and timely updates and analysis on significant cross-border tax legislative, regulatory and judicial issues.

Tax resources – Our suite of tax resources includes annotated, ready-to-print versions of holding company and transfer pricing matrices; a summary of controlled foreign company regimes for the DITS countries; an R&D incentive matrix; monthly treaty updates; and expanded coverage of VAT/GST/sales tax rates.

Webcasts – Live interactive webcasts and Dbriefs by Deloitte professionals provide valuable insights into important tax developments affecting your business.

Recent additions and updates – Links from the DITS home page to new and updated content.

DITS is free, easy to use and readily available!

http://www.dits.deloitte.com

9.0 Office locations

To find out how our professionals can help you in your part of the world, please contact us at the offices listed below or through the "contact us" button at **http://www.deloitte.com/tax**.

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