



CANADA RELEASES PROPOSED INFORMATION REPORTING REQUIREMENTS FOR TAX AVOIDANCE TRANSACTIONS

By Stephanie Wong and Larissa Tkachenko

On May 7, 2010, the Department of Finance Canada released for public consultation proposals to establish an information reporting regime for certain tax avoidance transactions. The policy objective of the proposed regime, which was initially announced in the 2010 Federal Budget, is to ensure the fairness and integrity of Canada's income tax system, while the practical objective is to assist the Canada Revenue Agency ("CRA") in identifying aggressive tax planning transactions for further scrutiny. With these proposals, Canada is following in the footsteps of the U.K., the U.S. and the province of Quebec in exerting more pressure on Canadian taxpayers who undertake aggressive tax planning.

The proposals outline:

- the transactions reportable under the new rules: "avoidance transactions" bearing at least two of three specific hallmarks;
- the persons subject to the reporting requirements: generally, the person seeking to obtain a tax benefit from a reportable transaction, but may also include promoters and tax advisors in certain circumstances, and a person who enters into an avoidance transaction for the benefit of a taxpayer (e.g., a corporation undertaking a transaction which results in a tax benefit accruing to a current or future shareholder of the corporation);
- basic information on the filing of the prescribed information return (the proposals note that the CRA will publish guidance on the form and content of the information return); and
- the consequences of failing to report as required: suspension of the tax benefit and, if applicable, a penalty for failing to file (subject to a due diligence defence) for which each promoter or tax advisor would be jointly and severally liable with all other reporters to the extent of its entitlement to fees for the transaction.

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The proposed reporting regime would apply to avoidance transactions entered into after 2010, as well as avoidance transactions that are part of a series of transactions beginning before 2010 and completed after 2010. Interested parties are encouraged to submit their comments on the proposals to the government by July 7, 2010.

To read the Department of Finance Canada's background and description of the proposals, please [click here](#).

If you have any questions on this topic or would like to discuss any other tax matters, please do not hesitate to contact one of the professionals in the **Tax Group**.

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