Commercial Realities Shape the Interpretation of Tax Treaties

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In a recent decision, the Tax Court of Canada considered CRA's own prior statements as well as the commercial realities of resource companies in finding that treaty benefits applied to a Luxembourg corporation.

Tax treaty benefits, like many other tax incentives, are often designed to encourage foreign investment in Canadian industry. However, gaps between the original intent of a policy and CRA's subsequent interpretations can result in uncertainty (and unwelcome tax bills) well after initial investment by a foreign company. The decision of the Tax Court of Canada in

By

Bhuvana Rai

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BLG Offices

Calgary

Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T 403.232.9500
F 403.266.1395

Ottawa

World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T 613.237.5160
F 613.230.8842

Vancouver

1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

Montréal

1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T 514.954.2555
F 514.879.9015

Toronto

Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749

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