



# THE NAVIGATOR

## FOREIGN REPORTING REQUIREMENTS IN CANADA

### Important changes to Form T1135 for 2013 tax returns

For many years, Canadian residents have been required to annually disclose their foreign assets to the Canada Revenue Agency (CRA) if the assets' cumulative cost exceeded C\$100,000 at any time in the calendar year. The assets are disclosed through the filing of a Form T1135 – *Foreign Income Verification Statement*.

The 2013 Federal Budget included a number of measures to combat international tax evasion and aggressive tax avoidance including a revised Form T1135. The revised form requires the disclosure of significantly more information than previously required. In an effort to assist taxpayers in transitioning to the new reporting requirements, the CRA has provided transitional reporting guidance for the 2013 tax year. The deadline for filing the T1135 for 2013 has been extended from the income tax return filing deadline for the year to July 31, 2014.

*The content in this article is for information purposes only and is not intended to provide tax or legal advice. To ensure that your own circumstances have been properly considered and that action is taken based on the latest information available, you should obtain professional advice from a qualified tax advisor before acting on any of the information in this article.*

### WHO HAS TO FILE FORM T1135?

The reporting requirement applies to Canadian resident individuals, corporations, partnerships and trusts owning "specified foreign property" with a cumulative cost exceeding C\$100,000 at any time in the year.

Specified foreign property generally includes (but is not limited to):

- Funds held in foreign bank accounts and foreign investment accounts, even if holding Canadian securities;
- Shares of foreign corporations, even

if held in Canadian investment accounts;

- Bonds or debentures issued by foreign governments or foreign corporations;
- Land and buildings located outside Canada (for example, foreign rental property);
- Interests in non-resident trusts;
- Interests or units in foreign mutual funds.

Specified foreign property does not include:

- Foreign assets held in tax-deferred accounts such as RPPs, RRSPs, RRIFs, RESPs, RDSPs, TFSAs and other registered accounts;
- Units of Canadian-registered mutual funds that invest in foreign securities (for example, RBC U.S. Equity Fund);
- Personal-use property (such as vacation homes, vehicles, jewellery, artwork, etc.);
- Property used or held exclusively in the course of carrying on an active business.



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The following example demonstrates this concept.

Consider an individual who in the year owns shares of a U.S. public corporation, in a non-registered Canadian investment account, that have a cost of \$75,000 (expressed in Canadian dollars converted at an exchange rate applicable at the time of purchase) and a bank account in the U.K. with an equivalent of C\$35,000 on deposit. As the total specified foreign property exceeded C\$100,000 at any time, this individual would be required to file Form T1135 for the tax year.

#### **WHAT MUST BE REPORTED?**

For 2013 and subsequent years, the following information must be provided on Form T1135:

- Description of the property
- Name of the bank or other entity holding funds or investments
- Country where the property is located
- The highest cost of each property held during the year
- Cost of each property at year-end
- Any income (loss) earned by each property
- Any gain (loss) realized on disposition of the property

#### **EXCLUSION WHERE T3 OR T5 SLIP ISSUED**

Where a T3 or T5 slip has been provided by a Canadian issuer in respect of a specified foreign property for the year, that specified foreign property is excluded from the Form

T1135 reporting requirement for that year. However, the CRA requires that income must have been received during the year from the specified foreign property in order to exclude it from detailed reporting. If there is a portfolio of several foreign securities held at the same Canadian financial institution, only some of which report income on the T3 or T5, the detailed information for those securities that did not report income on the T3 or T5 would be required to be reported on Form T1135. Therefore a T3 or T5 slip issued by RBC would not necessarily exempt all foreign properties held with RBC from detailed Form T1135 reporting.

It is important to note that the T3/T5 reporting exclusion does not relieve the obligation to file Form T1135. Any property excluded by way of T3/T5 reporting must be included when determining the cumulative cost of specified foreign property. If the cumulative cost of all specified foreign property exceeds C\$100,000 at any time in the year Form T1135 must be filed and the reporting exclusion check box must be marked on page one of the form.

#### **2013 TRANSITIONAL RULES**

For the 2013 tax year, the CRA has announced its intention to assist taxpayers in transitioning to the new requirements by permitting streamlined reporting for certain specified foreign property on Form T1135.

Canadian resident individuals, corporations, partnerships and trusts who hold specified foreign property in an account with a Canadian registered securities dealer may report the combined value of all such property at the end of the tax year, rather than reporting the details of each property.

Any property excluded by way of T3/T5 reporting must be included when determining the cumulative cost of specified foreign property. If the cumulative cost of all specified foreign property exceeds C\$100,000 at any time in the year Form T1135 must be filed.

The following information needs to be provided on Form T1135 if this transitional reporting method is used:

- The market value of all specified foreign property held in that account at year-end.
- Total income (loss) earned on all specified foreign property held in that account at any time during the year.
- Total gain (loss) realized on the disposition of all specified foreign property held in that account at any time during the year.

If you choose to use this reporting method, it must be used for all accounts with Canadian registered securities dealers. Also, the T3/T5 reporting exclusion cannot be used for an account with a Canadian registered securities dealer if the 2013 transitional reporting method has been used for any other account with a Canadian registered securities dealer.

Form T1135 must be filed on or before the due date of your income tax return, or in the case of a partnership, the due date of the partnership information return. For the 2013 tax year, the filing deadline has been extended to July 31, 2014.

#### **CONSEQUENCES OF FAILURE TO FILE CORRECTLY AND/OR ON TIME**

Failure to file Form T1135 by the due date or filing a Form T1135 with

inaccurate information results in a penalty of \$25 per day (subject to a minimum penalty of \$100) to a maximum of \$2,500 per year. Additional penalties may result if the failure to file was done knowingly.

In addition to these penalty provisions, failure to comply with the requirements of Form T1135 (for example, where the form is filed late, in an incomplete manner, or is incorrect) will result in a three-year extension to the normal reassessment period which will apply to the entire tax return (i.e. the tax return will not be statute barred until six years after the date of the original notice of assessment). The extension of the reassessment period allows CRA to review the entire return for the particular year and does not restrict their review to just the income related to foreign property.

#### **NEXT STEPS**

The amount of information required under the CRA's new reporting requirements is significant and in many cases detailed information is not readily available. Consider gathering the required information as early as possible in order to ensure that Form T1135 is filed accurately and on time.

*For further information regarding filing Form T1135 contact your qualified tax advisor.*

Please contact us for more information about the topics discussed in this article.

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