

JASON BABA WEALTH MANAGEMENT GROUP

Newsletter



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for the clients and friends of

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Foreign Reporting Requirements in Canada

IMPORTANT CHANGES TO FORM T1135 FOR 2014 AND FUTURE TAX YEARS

If you held “specified foreign property” with a cost in excess of C\$100,000 at any time during the taxation year, you are required to report to the Canada Revenue Agency (CRA), for the year, certain information related to your foreign property on Form T1135 – Foreign Income Verification Statement. These foreign reporting rules do not impose any additional taxes but require only the disclosure of information about the ownership of foreign property.

The CRA has implemented changes to Form T1135 for the 2014 and later tax years. The changes allow you to report aggregate amounts for specified foreign property held in accounts with registered securities dealers and Canadian trust companies rather than providing the details of each such property.



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Consequences of Failure to File Accurately and on Time

If you fail to file Form T1135 by the due date, you may face a penalty. The penalty is \$25 per day, subject to a minimum penalty of \$100 and a maximum of \$2,500. Further penalties may apply if the failure to file or if errors or omissions were made knowingly or resulted from gross negligence. These penalties can be significant.

Due Date for Filing the T1135

Your T1135 is due on or before the due date of your income tax return. For individuals the filing deadline is generally April 30 of the following year (June 15 for self-employed individuals).

Who Has to Report?

Canadian resident taxpayers who own specified foreign property with a total cost amount of more than C\$100,000 *at any time in the year* are required to file Form T1135. Individuals are not required to file Form T1135 for the year in which they become a resident of Canada.

The threshold of C\$100,000 applies to the cost of all specified foreign property you own at *any time in the year*. This means that you need to keep track of the total cost of all specified foreign property you own on a daily basis, not just at year-end or each month-end.

What Property Do You Have to Report?

If you have to file Form T1135, then you are required to report all specified foreign property which generally includes (but is not limited to) the following:

- funds deposited or held outside Canada, even Canadian dollar funds deposited outside of Canada.
- intangible and tangible property situated outside of Canada (e.g. land and buildings outside Canada) including rental property.
- shares of foreign corporations, even if held in an investment account in Canada.
- an interest in a non-resident trust that was acquired for consideration (e.g. foreign mutual funds and exchange traded funds listed on a U.S. exchange).
- shares of a Canadian corporation if held outside Canada (e.g. if you hold RBC shares in an investment account in Phoenix).
- an interest in a partnership that holds a specified foreign property unless the partnership is required to file Form T1135.
- an interest in, or right with respect to, an entity that is a non-resident (this could include an option to purchase shares of a foreign corporation).
- a property that is convertible into, exchangeable for, or confers a right to acquire a property that is specified foreign property.
- a debt owed by a non-resident, including government and corporate bonds, debentures, mortgages and notes receivable.
- an interest in a foreign insurance policy.



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- precious metals, gold certificates and futures contracts held outside Canada.

*Specified foreign property **does not** include:*

- foreign property held in registered accounts such as RPPs, RRSPs, RRIFs, RESPs, RDSPs, locked-in registered plans and TFSAs.
- units of Canadian mutual fund trusts or mutual fund corporations that invest in foreign securities (e.g., RBC U.S. Equity Fund) or are held in a foreign currency.
- personal use property (such as vacation homes, vehicles, jewelry, artwork, etc.).
- property used or held exclusively in carrying on an active business (e.g. foreign real estate where you operate your active business).

What Information Must be Reported?

Whereas the previous form made compliance with the foreign reporting rules relatively simple, the revised form for 2014 and subsequent years requires more extensive details. The new Form T1135 is divided into seven categories that correspond to the different types of specified foreign property as follows:

1. Funds held outside Canada
2. Shares of non-resident corporations
3. Indebtedness owed by non-resident
4. Interests in non-resident trusts
5. Real property outside Canada (other than personal use and real estate used in an active business)
6. Other property outside Canada
7. Property held in an account with a Canadian registered securities dealer or a Canadian trust company

If you hold specified foreign property in any of the categories from 1 to 6, then you are required to list each such property in the appropriate category and provide the other related information requested on the T1135. We refer to this as **detailed reporting**. The following information is required for each specified property in categories 1 to 6:

- the name of the foreign entity holding the property, name of corporation issuing shares, description of debt/property or name of foreign trust.
- the country code for each property – this is the country of residence of the issuer or trust or the country where the property is located.
- the maximum cost amount of the property during the year.
- the cost amount at year-end.
- the amount of any income/loss that the particular foreign property generated in the year, as well as any capital gain/loss realized during the year for each foreign property.

The cost amount is generally the acquisition cost of the property. You can use the month-end highest cost amount of a particular specified foreign property to determine the maximum cost amount during the year.

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If you hold all of your specified foreign property with a Canadian registered securities dealer or a Canadian trust company then you can choose to do **aggregate reporting** and only category 7 will apply to you. You will need to provide the following information on a country-by-country basis if you choose this method of reporting:

- the name of the registered security dealer/trust company.
- the country code for each country reported. If you are uncertain about the country code for a particular security then you should select “Other.”
- the maximum fair market value during the year for each country reported – this may be based on the maximum month-end fair market value for each country.
- the fair market value at year-end for each country reported.
- the total income (loss) earned on the property during the year for each country.
- the total gain (loss) realized on the disposition of the property during the year for each country reported.

Foreign Currency Conversion

All amounts reported on Form T1135 need to be in Canadian dollars. Generally you should use the exchange rate in effect at the time of the transaction (i.e. the time the income was received or when the property was purchased or sold). However, if you receive income throughout the year, it is also acceptable to use the average exchange rate for the year.

In order to assist in completing Form T1135, we have a report that can be sent to you called the Securities and Income by Country Report. This report provides information on non-registered securities data by country of origin based on individual account holdings. Please let us know if you would like to receive this report.

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