Income Tax Act (R.S.C. (Revised Statutes of Canada), 1985, c. 1 (5th Supp.))

Act current to 2026-07-21 and on 2026-06-18.

Definitions

233.3 (1) The definitions in this subsection apply in this section.

reporting entity for a taxation year or fiscal period means a specified Canadian entity for the year or period where, at any time (other than a time when the entity is non-resident) in the year or period, the total of all amounts each of which is the cost amount to the entity of a specified foreign property of the entity exceeds $100,000. (*déclarant*)

specified Canadian entity for a taxation year or fiscal period means

(a) a taxpayer resident in Canada in the year that is not

(i) a mutual fund corporation,

(ii) a non-resident-owned investment corporation,

(iii) a person (other than a trust) all of whose taxable income for the year is exempt from tax under Part I,

(iv) a trust all of the taxable income of which for the year is exempt from tax under Part I,

(v) a mutual fund trust,

(vi) a trust described in any of paragraphs (a) to (e.1) of the definition ***trust*** in subsection 108(1),

(vii) a registered investment, nor

(viii) a trust in which all persons beneficially interested are persons described in subparagraphs (i) to (vii); and

(b) a partnership where the total of all amounts, each of which is a share of the partnership’s income or loss for the period of a member that is a non-resident person or a taxpayer referred to in any of subparagraphs (a)(i) to (viii), is less than 90% of the income or loss of the partnership for the period, and, where the income and loss of the partnership are nil for the period, the income of the partnership for the period is deemed to be $1,000,000 for the purpose of this paragraph. (*entité canadienne déterminée*)

specified foreign property of a person or partnership means any property of the person or the partnership that is

(a) funds or intangible property, or for civil law incorporeal property, situated, deposited or held outside Canada,

(b) tangible property, or for civil law corporeal property, situated outside Canada,

(c) a share of the capital stock of a non-resident corporation,

(d) an interest in a non-resident trust,

(e) an interest in a partnership that owns or holds specified foreign property,

(f) an interest in, or right with respect to, an entity that is non-resident,

(g) indebtedness owed by a non-resident person,

(h) an interest in, or for civil law a right in, or a right — under a contract in equity or otherwise either immediately or in the future and either absolutely or contingently — to, any property (other than any property owned by a corporation or trust that is not the person) that is specified foreign property, and

(i) property that, under the terms or conditions thereof or any agreement relating thereto, is convertible into, is exchangeable for or confers a right to acquire, property that is specified foreign property,

but does not include

(j) property that is used or held exclusively in the course of carrying on an active business of the person or partnership (determined as if the person or partnership were a corporation resident in Canada),

(k) a share of the capital stock or indebtedness of a non-resident corporation that is a foreign affiliate of the person or partnership for the purpose of section 233.4,

(l) an interest in, or indebtedness of, a non-resident trust that is a foreign affiliate of the person or partnership for the purpose of section 233.4,

(m) an interest in a non-resident trust that was not acquired for consideration by either the person or partnership or a person related to the person or partnership,

(n) an interest in a trust that is described in paragraph (a) or (b) of the definition *exempt trust* in subsection 233.2(1), or that would be described in paragraph (b) of that definition if that paragraph were read as follows:

(b) a trust that

(i) is resident in Australia or New Zealand for income tax purposes under the laws of Australia or New Zealand, as the case may be,

(ii) qualifies for a reduced rate of income tax under the income tax laws of its country of residence referred to in subparagraph (i),

(iii) is established principally for the purpose of administering or providing benefits under a superannuation, pension or retirement fund or plan, and

(iv) is maintained primarily for the benefit of individuals that are resident in Australia or New Zealand, as the case may be; or

(o) an interest in a partnership that is a specified Canadian entity,

(o.1) a right with respect to, or indebtedness of, an authorized foreign bank that is issued by, and payable or otherwise enforceable at, a branch in Canada of the bank,

(p) personal-use property of the person or partnership, and

(q) an interest in, or for civil law a right in, or a right to acquire, a property that is described in any of paragraphs (j) to (p). (*bien étranger déterminé*)

Application to members of partnerships

(2) For the purpose of this section, a person who is a member of a partnership that is a member of another partnership

(a) is deemed to be a member of the other partnership; and

(b) the person’s share of the income or loss of the other partnership is deemed to be equal to the amount of that income or loss to which the person is directly or indirectly entitled.

Returns respecting foreign property

(3) A reporting entity for a taxation year or fiscal period shall file with the Minister for the year or period a return in prescribed form on or before the day that is

(a) where the entity is a partnership, the day on or before which a return is required by section 229 of the *Income Tax Regulations* to be filed in respect of the fiscal period of the partnership or would be required to be so filed if that section applied to the partnership; and

(b) where the entity is not a partnership, the entity’s filing-due date for the year.

[NOTE: Application provisions are not included in the consolidated text; see relevant amending Acts and regulations.] ; 1997, c. 25, s. 69; 2001, c. 17, s. 184; 2013, c. 34, ss. 22, 166; 2023, c. 26, s. 66.

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