



TIEAs and CANADA

Canada has recently agreed tax information exchange agreements (TIEAs) with each of Bermuda, the British Virgin Islands and the Cayman Islands. This is welcome news for our international financial centres as well as for Canadian companies looking for an international financial centre with a favourable tax regime and advanced business infrastructure.

Broadly speaking, TIEAs facilitate the exchange of information relating to taxes between the two jurisdictions party to the TIEA. TIEAs are considered to be an important tool to help prevent tax evasion in circumstances where there is not a comprehensive tax treaty.

In Canada, the benefits of TIEAs are even more pronounced. In March, 2007, Canada passed laws which provided favourable tax treatment for business income repatriated from TIEA jurisdictions, and introduced negative tax consequences for the repatriation of income from any jurisdiction which does not agree a TIEA within 60 months of a request from Canada. With respect to the favourable tax treatment, we understand that actual or deemed active business profits of a company based in a TIEA jurisdiction are eligible for tax free dividend repatriation to a Canadian parent as “exempt surplus”.

Specifically, not only is active business income earned in the TIEA jurisdiction able to be repatriated tax free, but passive forms of income such as interest or royalties paid to a company in a TIEA jurisdiction by a sister company resident and carrying on active business in a third jurisdiction (also being a TIEA or treaty jurisdiction) may be repatriated on a tax free basis to the Canadian parent, so long as the amount is deductible in computing active business income of the sister. This allows the Canadian parent to take advantage of the favourable tax regime (ie. zero tax regime) of our TIEA jurisdictions.

While Canada has had a long standing relationship with Barbados pursuant to the Barbados - Canada tax treaty, as a result of the recent TIEAs being entered into by

Canada, we expect the financial centres where Conyers has a presence, particularly Bermuda, the Cayman Islands and the British Virgin Islands to play a significantly greater role in the international structuring of Canadian companies.

We refer you to Canadian tax counsel for the exact tax consequences under Canadian law of utilising a company in Bermuda, the Cayman Islands or the British Virgin Islands. Otherwise, please contact your usual Conyers Dill & Pearman contact for advice in connection with incorporating such a company under the laws of our jurisdictions.



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This article is not intended to be a substitute for legal advice or a legal opinion. It deals in broad terms only and is intended to merely provide a brief overview and give general information. We are not qualified to provide Canadian tax advice.

About Conyers Dill & Pearman

Conyers Dill & Pearman advises on the laws of Bermuda, British Virgin Islands, Cayman Islands, Cyprus and Mauritius. Conyers' lawyers specialise in company and commercial law, commercial litigation and private client matters. Conyers' structure, culture and expertise enable responsive, timely and thorough service. Conyers provides clients with the highest quality legal advice from strategic global locations including offices in the world's leading financial centres in Europe, Asia, the Middle East and South America. Founded in 1928, Conyers comprises 600 staff including more than 150 lawyers. Affiliated companies (Codan) provide a range of trust, corporate secretarial, accounting and management services.

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