

CASE IN POINT

Sales Tax Estate Planning Underwriting & Product Newsletter

Foreign Property and Canadian Tax Reporting

A couple calls you about some tax reporting forms dealing with some of their investments. They are confused about what information they need to share with the Canadian tax department (CRA). They send you a copy of a T1135, Foreign Income Verification Statement. What information can you provide?



Thoughts and Considerations

Canadian resident individuals, corporations and certain partnerships and trusts must file form T1135 with their income tax return when the cost amount of their foreign property exceeds \$100,000 at any time during the year. The form can be filed electronically for the 2015 and later tax years. A stream-lined, check the box method for each property type is available for Canadian resident taxpayers whose specified foreign property has an aggregate cost less than \$250,000 at any time during the year. The threshold is based on the cost amount or adjusted cost base, not the fair market value. The cost amount of foreign property received as a gift or inheritance is the fair market value at the time the property is received. Canadian resident taxpayers must report and include in their income all the income they earn from foreign property for Canadian tax purposes, regardless of the cost amount of the foreign property. The \$100,000 threshold means that many Canadians do not need to comply with the reporting requirements of form T1135. This does not exempt them from paying tax on any income earned on such property. They must generally report gross income.



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Peter works with independent advisors and other professionals raising awareness on issues and concerns faced by affluent individuals, professionals and business owners. He supports efforts in researching and developing optimal solutions for clients aimed at improving their financial well-being and supporting their personal wishes and lifestyles. He has provided 1000s of workshops, seminars and technical support throughout the country on tax, retirement income and estate planning issues, concepts and strategies to both advisors and consumers. As an accredited Registered Financial Gerontologist, a good deal of his time is spent on building awareness and educating people of all professions who work with or specialize in the needs, expectations and issues of elders. Comprehensive lifestyle planning is an important element of these processes.

The Sales, Tax, Estate Planning, Underwriting & Product (STEPUP) team provides internal and broker support, including seminars, education, advanced concept illustrations & Client case technical consultations.

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What is specified foreign property?

It's property situated, deposited or held outside of Canada. It generally includes: foreign bank accounts, shares of foreign corporations, shares of corporations resident in Canada that are held outside of Canada real and tangible property and intangible property (like copyrights, patents) indebtedness, including foreign bonds, debentures, mortgages, notes receivable and life insurance issued by a foreign insurer. It also includes shares of non-resident corporations held through a Canadian broker.

Any mortgage or leveraging involved in acquiring the property is ignored. The currency of the property does not impact whether or not it is specified foreign property.

It generally does not include: funds invested in registered plans, personal use property, an interest in a trust as described in para. 233.2(1)(a) or (b), Income Tax Act (Canada), property located outside Canada used or held only in the course of carrying on an active business shares in foreign affiliates an interest in or right to acquire any of the aforementioned excluded foreign property

Let's explore some of these in more detail. Specified foreign property held in a Registered Retirement Savings Plan (RRSP), Registered Retirement Income Fund (RRIF) or Tax Free Savings Account (TFSA) is excluded from form T1135 reporting requirements.

Specified foreign property does not include personal-use property, like US situated vacation property and furnishings. Personal-use property is generally defined as property owned by a taxpayer that (s)he or a related party

uses primarily for personal and enjoyment purposes. The CRA takes the view that "primarily" means more than 50%.

Let's say the couple rents out a condo for part of the year and there is no reasonable expectation of profit; for example, they are merely recovering part of the condominium expenses, then the CRA will consider it a personal-use property. That real property is not a specified foreign property and is excluded from the reporting requirements. Whether a particular property is primarily for personal use and enjoyment is a question of fact that is determined on a case-by-case basis.

A Canadian mutual fund trust (as defined in the Income Tax Act (Canada)) is excluded from the definition of "specified Canadian entity," so it does not have to file form T1135. Also, Canadian residents do not have to report their investment in a Canadian mutual fund trust because it is not a "specified foreign property." The same applies to Canadian mutual fund corporations (as defined in the Income Tax Act (Canada)). The same should hold true for segregated funds.

Where Canadian residents have received a T3 or T5 from a Canadian issuer for a specified foreign property for a tax year, that property is excluded from T1135 reporting for that year. The property is still included in the calculation of the total cost amount of all specified foreign property they held at any time in the year to see if it exceeds the \$100,000 threshold.

For more information please click on this [link](#)

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