TAXATION IN CANADA

INCOME, BUSINESS, PROPERTY

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Prepared by

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F O R E W O R D

The information in this text deals with the incidence of taxation on income, business and property. Every effort has been made to accurately reflect the legislation in force at the time of preparing the material. It is believed that the text will prove to be a useful guide.

It should be appreciated, however, that many of the laws contain a considerable amount of detail. Since the text does not do more than refer to basic principles, it is suggested that an enquirer should consult with relevant authorities or solicitors of his choice or both when seeking precise and detailed advice on a given problem at a specific time.

Specific information can be obtained from any one of the district taxation offices of the Department of National Revenue which are to be found throughout the country. Head Office of the Department of National Revenue is located in Ottawa.

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TAXATION IN CANADA - INCOME, BUSINESS, PROPERTY

FEDERAL-PROVINCIAL ARRANGEMENTS

It is well to note at the outset that the federal and provincial governments have authority to levy income taxes in Canada.

Generally speaking, all persons (including corporations) resident in Canada are liable to federal and provincial income taxes. These taxes are applied on income received during the taxation year from all sources inside or outside of Canada less certain allowable deductions. Similarly, branches of foreign companies carrying on business in Canada are liable to Canadian income taxes on profits derived from such transactions. Administrative procedures, interpretative rulings, are generally similar at both provincial and federal levels.

In the years preceding 1962, agreements existed between the Federal Government and the provinces, except Ontario and Quebec, under which the provinces refrained from imposing their own corporate income taxes. Similar arrangements existed with regard to personal income taxes except in the Province of Quebec. Personal and corporate income taxes are now imposed by federal and provincial governments. As part of the new arrangements, the Federal Government has provided a scaled reduction of its personal income tax starting at 16% for 1962, and increasing by 1 percentage point yearly up to 20% in 1966. The reduction for the 1964 taxation year is 18%. With the exception of the Province of Quebec, provincial taxes on personal income are collected by the Federal Government.

The federal tax on income of corporations is also reduced by 9 percentage points in all provinces except Quebec where the reduction is 10 percentage points. The additional 1% abatement extended to Quebec is in lieu of federal grants to universities. For all provinces with the exception of Ontario and Quebec, the provincial taxes on corporate income are collected by the Federal Government.

PROVINCIAL INCOME TAX

Corporate

All provinces levy a tax on the profits of corporations derived from activities or operations carried out within their boundaries. In all provinces except Ontario and Quebec the provincial tax is imposed on taxable income in the province determined on the same basis as for federal income tax. In Ontario and Quebec the determination of taxable income for purposes of provincial tax follows closely the federal rules. Where a corporation carries on operations in more than one province, it must allocate its taxable income among the provinces concerned in accordance with prescribed rules, which for most corporations are based on sales and wages in the province. The rates of tax levied by the various provinces are as follows: -

Province	Rate of tax on taxable profits
Newfoundland	9%
Prince Edward Island	9%
Nova Scotia	9%
New Brunswick	9%
Quebec	12%
Ontario	11%
Manitoba	10%
Saskatchewan	10%
Alberta	9%
British Columbia	9%

All provinces except Ontario and Quebec have signed agreements for the collection of their income taxes with the Federal Government. Four of the ten provinces levy corporate income taxes in excess of the abatement allowed by the Federal Government. This abatement is equal to 9% of corporate profits in all provinces except Quebec where the abatement is 10%.

Personal

All provinces levy a tax on the income of individuals who reside within their boundaries or who earn income therein. In nine of the ten provinces, these taxes are computed as a percentage of federal income tax otherwise payable at full federal rates and are collected by the Federal Government on behalf of these provinces. In the Province of Quebec, provincial income tax is levied at graduated rates that progress from 2.5% on the first $1000 of taxable income to a maximum of 13.2% on the excess over $400,000. The determination of taxable income for Quebec tax is based on exemptions and deductions similar to those for federal tax. The Province of Quebec collects its own tax. The rates of Quebec income tax are outlined in Appendix B.

In those provinces where the provincial tax is collected by the Federal Government the rate of tax must be expressed as a percentage of the full federal rate of tax on personal income in whole percentage points and must remain constant throughout the calendar year. The following table shows the percentage that provincial income tax liability is of federal income tax liability computed at full federal rates for 1964:

Province		% of full federal liability
Newfoundland		18%
Prince Edward Island		18%
Nova Scotia		18%
New Brunswick		18%
Quebec	Approximately	20%
Ontario		18%
Manitoba		24%
Saskatchewan		24%
Alberta		18%
British Columbia		18%

As indicated in the above table only the provinces of Quebec, Manitoba and Saskatchewan levy provincial income taxes in excess of the 18% abatement of federal income tax at full rates allowed by the Federal Government. The federal rates of income tax on personal incomes are outlined in Appendix A.

In the nine provinces where provincial income taxes on incomes of individuals are collected by the Federal Government both federal and provincial personal income taxes are paid together with single returns and remittances. The earned and investment income of resident salary and wage earners is allocated to the province where the taxpayer resided on the last day of the calendar year or on his last day of residence in Canada. Where non-residents are employed or carry on business in Canada, their income for provincial tax purposes is allocated to the province where they were employed or carried on business. The income of resident individuals carrying on a business or profession is allocated to provinces according to rules contained in Federal Income Tax Regulations. Where such individuals earn business or professional income in more than one province, they are required to allocate such income according to these regulations so that the appropriate provincial rates and allocations can be applied.

The foregoing is simply an outline of the more important points concerning provincial income taxes. However, details can be obtained from the Provincial Acts and Regulations or directly from the respective provincial taxation authorities.

CORPORATE INCOME TAX - FEDERAL

Generally speaking, all companies resident in Canada are liable to federal income tax. The tax is applied upon income received during the taxation year from all sources inside or outside of Canada, less certain deductions permitted by the Income Tax Act.

"Income" is not defined in the Federal Income Tax Act. The Act merely states that it includes income for the year from all businesses, properties, offices and employment. Nor are detailed instructions given on how to compute gross income. It is left to management, within certain broad limits, to employ the method best suited to the particular business operation, assuming, of course, that the methods are in accordance with normal usage.

Deductions

Among the allowable deductions are - interest on money and rental for property used in earning income; reserve for doubtful debts; bad debts; contributions to pension funds; approved expenditures on scientific research; patronage dividends; employer's contributions under profit-sharing plans. Certain special deductions are allowed in connection with oil wells, gas wells and mines. More details on this latter subject can be found in an annual publication issued by the Department of Mines and Technical Surveys, Ottawa, entitled "Summary Review of Federal Taxation and Legislation Affecting the Canadian Mineral Industry".

Of particular importance to a new company is the provision whereby profits and losses may be offset over a seven-year period for the purpose of determining taxable income. A company may deduct from income those business losses suffered in the five years immediately preceding the taxation year or the losses suffered in the year succeeding the taxation year.

Expenses incurred in the course of issuing or selling shares of its capital stock or in the course of borrowing money used in the company's business (other than amounts in respect of commissions, bonus payments or discounts) are also allowed as a deduction in computing the income of a company.

Other deductible items are dividends received from taxable Canadian corporations, business and property taxes paid to municipal governments, license fees and special taxes on income from mining operations paid to provincial governments. The corporation may also deduct from federal tax otherwise payable an amount equal to 2/3 of a provincial tax on income from logging operations, not exceeding 2/3 of 10% of the corporation's income from logging operations in the province.

Non-allowable deductions include organizational expenses, Ontario or Quebec taxes on security transfers, sums transfered to a reserve or sinking fund, unless expressly permitted, and, in general, any expense or outlay not made for the purpose of earning income.

Another measure of relief has reference to taxes paid to a foreign country. A credit for such tax is allowed to the Canadian taxpayer, provided that the amount so claimed does not exceed the proportion of the Government of Canada tax on such income. A separate credit must be calculated in respect of income from each country.

Capital Cost Allowances

A taxpayer is also entitled to claim an amount in respect of depreciation on property used earning income. In the Canadian law these are referred to as capital cost allowances. Section 11 of the Income Tax Act and Part XI of the Regulations establish 18 classes of property into which assets are grouped for purposes of capital cost allowances. Regulations also state the maximum rate at which such assets may be written off.

Capital cost allowances are ordinarily calculated on a diminishing balance principle rather than straight line reduction. For example, a business asset costing $10,000, and subject to a rate of 5%, could be depreciated up to an amount of $500 at the end of the first year, but only $475 at the end of the second year (i.e. 5% of $10,000 minus $500). In each case, the amount of the allowance claimed for taxation purposes is subtracted from the net value of assets in the same group to leave a diminished balance which is carried forward to the beginning of the next taxation year as the "undepreciated capital cost" of the property in that class. Adjustments to "undepreciated capital cost" must be made for acquisition and disposal of assets in that group as they occur.

A lesser amount than the maximum may be claimed as a deduction if the taxpayer so chooses. It might be mentioned also that the amount claimed need not conform to the relative provision for depreciation appropriated from profits as shown on the financial statement to shareholders.

The maximum rates of capital cost allowances for those classes of most interest are as follows:

(1)	Frame buildings and component parts	-	10%
(2)	Buildings in general and component parts	-	5%
(3)	Automobiles, trucks, etc.; contractors' equipment; mining machinery, equipment and building	-	30%
(4)	Sundry, not included in specific groups (including machinery in general)	-	20%

Special Depreciation Allowance -

Effective, June 14, 1963, manufacturing and processing enterprises located anywhere in Canada and having a degree of Canadian ownership can write-off most new machinery at a rate not in excess of 50% per year on a straight-line basis. This special allowance applies only to eligible machinery and equipment acquired during the two year period beginning June 14th, 1963. This special allowance may be applied at any time and permits the complete write-off of eligible assets in two years.

For details concerning the meaning of "a degree of Canadian ownership" see Appendix C.

Federal Taxation in Designated Areas

Thirty-five designated areas across Canada qualify for special measures of federal assistance for economic or industrial development on the basis of high levels of unemployment and slow rates of growth. The areas concerned are listed in Appendix D. Federal assistance to these areas includes two measures concerning federal income tax -- special depreciation allowances and temporary federal income tax abatement.

These two incentive measures apply to new manufacturing and processing enterprises located in the designated areas. The main criteria in qualifying as a "new" enterprise are that purchased or leased assets must be new (never used before December 5th, 1963) and must be for the use of a newly incorporated business or of an existing corporation or unincorporated business carrying on a business different from any other business carried on by the taxpayer at that time. It is not necessary that a newly incorporated business be new in the sense of never having been carried on in the area before. If an existing corporation or an unincorporated taxpayer wishes to have a business certified as "new" it must be a new business different from any other business carried on by the taxpayer anywhere else.

The special depreciation allowances under this programme are as follows:

(a) most new machinery and equipment acquired by a new manufacturing or processing enterprise during the two year period beginning December 5th, 1963 can be written off at a rate not in excess of 50% on a straight-line basis.

(b) new buildings constructed during the two year period beginning December 5th, 1963, can be written off at a rate not in excess of 20% on a straight-line basis.

The special income tax abatement measure is as follows:

Effective December 5th, 1963 (until December 4th, 1965) new manufacturing and processing enterprises located in designated areas are eligible for abatement from federal income taxes for a period of 36 months from the date they commence commercial operation.

With regard to the three incentives outlined above, The Minister of Industry is responsible for certifying that a business is "new", that it is a manufacturing and processing concern and the date of commencement of commercial operation. Further details concerning this programme can be obtained from the Incentive Administration Division, Area Development Agency, Department of Industry, Ottawa.

Scientific Research

In calculating its federal tax liability a corporation is allowed a deduction from income equal to 150 per cent of increased expenditures on scientific research related to its business. The deduction applies each year, during the 1962 to 1966 taxation period, to current and capital expenditures (other than for land) on research, to the extent that such expenditures exceed similar expenditures in the last taxation year ending before April 11, 1962. For a corporation not having a taxation year that ended before April 11, 1962, its base period is nil. Accordingly, all its eligible expenditures are considered as an "increase".

For purposes of this measure, "scientific research" means a systematic investigation or search by means of experimentation or analysis in the field of science to acquire new knowledge, to devise and develop new products and processes and/or to apply newly acquired knowledge in making improvements to existing products or processes. In some cases, expenditures to develop, test and evaluate a prototype are considered as scientific research expenditures. However, expenditures for purposes such as market research, sales promotion, quality control or preparation of specifications are not recognized as scientific research expenditures.

Any corporation planning to undertake a substantial program of scientific expenditures is advised to discuss its proposals in advance with officials of the Taxation Division, Department of National Revenue, Ottawa.

Federal Rates

The amount of tax payable is calculated by applying statutory rates of tax to taxable income, which is the amount remaining after making deductions as outlined in the foregoing from gross income. The rates of tax are 21% on the first $35,000 of taxable income, and 50% on the balance.

Where two or more companies are "associated", only one of them is allowed the lower rate of 21%, and the other(s) must pay the higher rate of 50% on the amount of their taxable income. The Income Tax Act contains a lengthy set of rules defining when companies are deemed to be "associated". Briefly, one corporation is "associated" with another if one of the corporations controls the other, or if both of the corporations are controlled by the same person.

Although 21% and 50% are the basic rates of corporation income tax imposed by the Federal Government, under federal-provincial arrangements commencing January 1, 1962, the federal rates on income earned in all provinces except Quebec are reduced by 9 points to 12% and 41%. In Quebec the federal rates are reduced by 10 points to 11% and 40% in recognition of the fact that Quebec pays certain grants to universities which in the other provinces are paid by the Federal Government.

Other Aspects

Corporations must pay their taxes in monthly instalments. Legislation passed in 1963 changed the payment period for corporations and when this change becomes fully effective (for taxation years ending after November 1965) a corporation will be required to pay its tax for a year during the 12 month period that ends 4 months after the close of its taxation years. Its return must be filed by the end of the 6th month after the end of its taxation year. The taxation year for a corporation is defined as its fiscal period, and, when a taxation year is referred to by reference to a calendar year, the reference is to the taxation year ending in that calendar year.

In computing its income, a corporation is not required to include the profits derived from the operation of a mine for the period of 36 months commencing with the day on which the mine came into production in reasonable commercial quantities. For purposes of this provision, the term "mine" includes the operation of a deposit of oil shale or bituminous sand, but does not include an oil or gas well, a brine well, a sand pit, a gravel pit, a shale pit or a stone quarry.

The Income Tax Act provides that a company may elect to pay a 15% tax on its "undistributed income" (as defined in the Act), accumulated up to the end of 1949. Corporations which have taken this action with respect to their pre - 1949 undistributed income, or those having no pre-1949 undistributed income, may do the same with that portion of their post-1949 earnings which have been matched by the payment of ordinary dividends. The undistributed income on which tax has been paid may be capitalized or distributed tax-free on winding up, reorganization or discontinuance of the company. Generally, it may be distributed tax-free in accordance with the law governing corporations insofar as the distribution of capital is concerned. In many instances, the capitalization of "tax-paid undistributed income" has been made by the issuance of a stock dividend in the form of redeemable preferred shares, and the subsequent redemption of such shares by the company does not render the shareholder subject to Canadian income tax.

A business operation under a partnership agreement or as a sole proprietorship is not subject to a federal tax as a separate entity as is a corporation. The income of the business is deemed to have been distributed for tax purposes in accordance with the interests of the owners, whether or not it is withdrawn. The income becomes the income of the owners, for the calendar year in which the fiscal year of the business ends, and is subject to tax along with other private income at the prevailing rates of personal income tax.

PERSONAL INCOME TAX - FEDERAL

Every person resident in Canada at any time in a year is liable for personal income tax on his income for the year from all sources inside or outside Canada. The determination of whether a person is resident is a question of fact, but any individual who stays in Canada for 183 days, or more, in a year, is deemed to have been a resident in that year. Special rules apply to those who reside abroad for a part of the year.

Non-residents who are employed or carry on business in Canada at any time in a year are required to pay tax on the income earned in Canada. However, this general requirement is modified by various tax agreements.

The income of a taxpayer for a taxation year includes income from a business, wages and salary, dividends, directors' fees, annuity payments, interest, alimony received, income from estates, payments based on the use of any real or personal property, etc.

The income of a partnership, syndicate or sole proprietorship is deemed to be income of the owners for the calendar year in which the fiscal year of the business ends, and is subject to tax along with other private income at current rates of personal income tax. The income of such business is allocated to the principals of the organization in accordance with the terms of their agreement.

For purposes of determining income, an unincorporated taxpayer carrying on business may deduct, in general, the same type of expense as the corporate taxpayer, i.e., those wholly, exclusively or necessarily laid out for the purpose of earning income.

With regard to dividends from taxable Canadian companies, an individual taxpayer may deduct from his tax payable 20% of the net amount received.

There are certain special deductions from income. The personal exemption for a single person without dependents is $1000. For a married person and those who have dependents, the exemption is $2000, plus a further $300 for each child qualified to receive allowances under the Family Allowance Act, or $550 if the child is not so qualified. Family allowances are paid by the Federal Government in respect of children sixteen and under. The payments are $72 (for children under 10 years), or $96 (for children 10 to 16 years) per annum per child.

A dependent may earn up to $950 income and still qualify as a dependent. Students attending university, even though over 21 years of age, may be claimed as dependents. Full time students in a degree course at a university or in an institution at the post-secondary school level who are in receipt of income are entitled to claim a deduction for tuition fees in computing their tax liability.

Other provisions in the Income Tax Act cover deductions for medical expenses, charitable donations, union dues and contributions to pension plans. In lieu of claiming deductions for charitable donations, medical expenses and membership dues for trade unions or professional societies, an individual may claim a standard deduction of $100. A taxpayer who has outlays for these items which aggregate more than $100 may file receipts and claim for them separately. A deduction may be made for charitable gifts and contributions not exceeding 10% of income. Medical expenses in excess of 3% of the taxpayer's income may be deducted. Employees may deduct up to $1500 per year as contributions into registered pension plans, and all individuals may deduct amounts, within limits, set aside to provide a future income under registered retirement saving plans.

Income tax on salaries and wages is deducted at the source. Employers are charged with responsibility for collection. The amounts collected are remitted on a monthly basis.

An employee must file with his employer a return (Form TDI) outlining the personal exemptions to which he is entitled. Failure to provide this information renders him liable to tax deductions as a single person without dependents. The amounts deductible are set forth in an authorized table (designated Table 9), obtainable at any District Taxation Office in Canada. Deductions so made are applied against the employee's tax liability for the year, and are taken into account at the time that he files his return on or before April 30 in the succeeding year.

The rates of personal income tax are given in Appendix A.

WITHHOLDING TAXES

A special tax of 15% is normally payable where a Canadian resident pays or credits to a non-resident (corporation or individual) an amount in respect of interest or in respect of rent, royalty or a similar payment, including a payment (a) for the use of property in Canada, (b) in respect of an invention in Canada, (c) for any trade name, franchise, design or other thing whatsoever used or sold in Canada, (d) for a management or administration fee or charge.

The term interest includes income arising from interest-bearing securities, public obligations, mortgages, hypothecs, corporate funds, loans, deposits and current accounts. Interest on bonds of, or guranteed by, The Federal Government is exempt from withholding tax when held by national governments of foreign countries and their central banks, and certain designated international agencies. Interest paid to certain non-resident purchasers of Canadian bonds and debentures issued after June 13, 1963 by Canadian borrowers are exempt from the withholding tax. To qualify under this exemption non-resident purchasers must be free of income tax imposed by their country of residence.

Dividends paid or credited to a non-resident shareholder are normally subject to withholding tax. The term "dividend" includes all distributions of earnings or profits of a corporation. The applicable rate of withholding tax varies depending on the degree of Canadian ownership of the company remitting or crediting the dividend abroad as follows:

(a) for companies having a degree of Canadian ownership the rate of withholding tax is 10% effective June 13th, 1963.

(b) for companies not having a degree of Canadian ownership, the rate of withholding tax is 20% effective January 1, 1965

However, companies which achieve a degree of Canadian ownership during the period January 1, 1965 to December 31, 1966 are entitled to a refund of withholding taxes paid in excess of the 10% rate.

For details concerning the meaning of "a degree of Canadian ownership" see Appendix "C".

Certain exceptions to the above rates of withholding tax exist under the terms of tax agreements which Canada has entered into with various countries.

Canadian licensees, lesses and others making these payments to a non-resident company or individual must deduct 10%, 15% or 20%, as the case may be, from every such payment at the time the payment is made or credited to the foreign party. The amount deducted must be remitted to the Receiver General of Canada. Whenever an agent of a non-resident corporation or individual receives payments from which the tax deduction has not been made, he is required to make such deduction before paying over to his principal.

FEDERAL INCOME TAX - CANADIAN SUBSIDIARIES OF FOREIGN BUSINESS FIRMS

Where a non-resident company is carrying on business in Canada through a subsidiary company resident in Canada, the subsidiary company is treated the same as any other Canadian company. The total income of the subsidiary, whether earned in Canada or elsewhere, is subject to income tax in Canada. The subsidiary may claim a credit for taxes paid to a foreign country on the same basis as any other Canadian company.

Methods of computing income and calculating deductions are the same as those outlined in the section dealing with corporate income tax, and the rates of income tax are the same as for any other company resident in Canada.

Payments made by a subsidiary to its parent in connection with management service should be a topic for discussion with taxation authorities. Management service may cover wide variety of matters. In some instances, it may be desired that the payments should cover: personnel training, product planning, tooling, catalogue preparation, preparation of advertising, sales help on international accounts, demonstration services, use of display material, machinery design, plant layout, patent protection, management assistance, speakers at technical meetings, etc. These payments and the service which they are designed to cover should be discussed with the Department of National Revenue prior to finalizing the agreement. The necessity for discussion in this particular instance is part of a much larger matter.

When a foreign company, by reason of its participation in the management or capital of a Canadian enterprise, makes or imposes differing commercial or financial conditions from those which would have been made with an independent enterprise, the Department considers that any profits which should have normally appeared in the balance sheet of the Canadian enterprise, and which have been diverted because of such conditions, should be incorporated in the taxable profits of the Canadian enterprise.

FEDERAL INCOME TAX - CANADIAN BRANCHES OF FOREIGN COMPANIES

Business dealings with Canadian customers, under circumstances considered to be "carrying on business in Canada", render a non-resident company liable to Canadian income tax on profits derived from such transactions.

Non-resident companies "carrying on business in Canada" are liable to federal income tax in the same manner as a Canadian company, with the essential difference that a non-resident company is liable to tax only on its income earned in Canada while a resident corporation is liable to tax on its total income from all sources, both inside and outside of Canada.

"Income earned in Canada" is, in principle, determined on the basis of separate accounts maintained by the Canadian office of the foreign company. Normally, if the accounts of the branch are so arranged that the income of the branch can be accurately determined, the federal taxation authorities will generally accept such accounts as the basis for determining income taxable under Canadian law. However, the Department may rectify the accounts produced to correct errors and omissions, or to re-establish the prices or remunerations entered in the books at the value which should prevail between independent persons dealing "at arm's length".

If the branch does not - (a) produce an accounting showing its own operations, (b) adopt accounting practices corresponding to the normal usages of the trade in Canada, or (c) effect rectifications; the Department of National Revenue will determine net profit by applying fair and reasonable methods or formulae to the operations of the establishment. The Department has arbitrary powers to determine the taxable income of any taxpayer - whether resident or non-resident, subject to applicable measures of appeal.

Permissible deductions for purposes of determing taxable income are almost the same for a non-resident company carrying on business in Canada as for a resident Canadian company. Dividends received by such a non-resident company from Canadian companies are usually regarded as being received by the head office of the company, and are not part of the income from carrying on business in Canada.

The taxable income earned in Canada by a non-resident company is taxed at the same rates as Canadian resident companies. In addition, the profits remaining after deducting both federal and provincial taxes and an allowance in respect of new capital investment in property in Canada are subject to a special 15% tax. This tax will increase to 20% commencing January 1st, 1965.

CARRYING ON BUSINESS IN CANADA

General

The term "business" includes a "profession, calling, trade, manufacture or undertaking of any kind whatsoever, and includes an adventure or concern in the nature of trade, but does not include an office or employment".

"Carrying on business in Canada" is broadly defined in Section 139(7) of the Income Tax Act which reads as follows: "Where, in a taxation year, a non-resident person - (a) produced, grew, mined, created, manufactured, fabricated, improved, packed, preserved or constructed, in whole or in part, anything in Canada, whether or not he exported that thing without selling it prior to exportation, or (b) solicited orders or offered anything for sale in Canada through an agent or servant whether the contract or transaction was to be completed inside or outside Canada or partly in and partly outside of Canada; he shall be deemed, for purposes of this Act, to have been carrying on business in Canada in the year".

This general definition embraces a very wide field of endeavour. Subsection (a) is self-explanatory. Subsection (b) would appear to leave some doubt as to what could be regarded as carrying on business.

The term "agent" carries with it no technical implication and it must be considered to include commission agents, brokers, travelling salesmen and representatives. Under such circumstances, the effect of Subsection (b), when strictly enforced, involves liability to Canadian income tax for any non-resident company selling goods to Canadian customers, through any person in Canada.

Compensation for service rendered in Canada is also considered to be taxable. If the business of a foreign company is that of rendering service, such as engineering or consulting, it would presumably become liable to income tax in respect of the service rendered in Canada, regardless of whether or not it maintained an office or fixed place of business in Canada. However, where a foreign company renders service as part of a contract of sale, the profit derived therefrom would not be subject to Canadian income tax, provided the contract had been made directly with the customer and the foreign company was not otherwise considered to be carrying on business in Canada.

The use of substantial equipment or machinery within Canada at any time in any taxation year might render a non-resident company or individual liable to Canadian income tax. The Department of National Revenue has made it clear that a non-resident company or individual can become liable to Canadian income tax without having a fixed place of business in Canada. On the other hand, the necessity of obtaining a provincial licence to do business, if an when required, is not a determining factor in ascertaining whether a foreign company is liable to federal income tax.

The foregoing rules are modified by tax agreements which Canada has with a number of countries. These agreements provide that Canada shall tax the industrial and commercial profits of an enterprise of the other country only if the enterprise maintains a permanent establishment in Canada.

Foreign Companies Outside Double Taxation Agreements

Canada has double taxation agreements with Australia, Denmark, Federal Republic of Germany, Finland, France, Ireland, Netherlands, New Zealand, Sweden, Republic of South Africa, Britain and United States of America. For purposes of companies from all other countries, the term "carrying on business in Canada" is defined in Section 139(7) of the Income Tax Act.

Under this provision, if profitable contracts by or for non-residents are made in Canada, by persons in Canada, and the goods are delivered (whether from stock kept in Canada or by consignment forwarded from abroad) and payments are received by or for the non-resident in Canada, then business is clearly being carried on in Canada within the meaning of the Act, and the non-resident is liable to income tax assessments on the profits from such Canadian business.

Similarly, liability attaches if the contracts are concluded and the deliveries made in Canada, though payment is made abroad; or if the contracts are concluded and payments made in Canada, but the delivery takes place abroad.

Finally, the mere fact that orders are taken in Canada is, regardless of circumstances, considered sufficient to render the non-resident company or individual liable to income tax on the profits from such business. A Canadian or non-resident salesman, representative or broker may merely solicit orders, which may be accepted, delivery made, even payments made outside of Canada, but notwithstanding all these facts, the foreign business enterprise would be liable to tax on the profits accruing from such sales.

Profits derived from sales made directly to Canadian customers without the intervention of any person or company in Canada is, apparently, the only clear-cut method that would not entail liability for a foreign business enterprise operating outside a double taxation agreement when the provisions of Subsection (b), Section 139(7), are applied.

Foreign Companies Under Double Taxation Agreements

"Carrying on business in Canada" is defined, for federal income tax purposes, in the double taxation agreements between Canada and Australia, Denmark, Federal Republic of Germany, Finland, France, Ireland, Netherlands, New Zealand, Sweden, Republic of South Africa, Britain and the United States of America. The provisions of these agreements take precedence over the Income Tax Act itself where a question of definition or application arises.

The agreements provide that an enterprise of one of the contracting countries may be taxed by the other country only on the industrial and commercial profits allocable to its permanent establishment in the latter country. "Permanent establishment" is defined as including branches, mines and oil wells, farms, timber land, plantations, factories, warehouses, offices, agencies and other fixed places of business.

Where an enterprise of one of the above countries carries on business in Canada through an employee or agent established here, who has general authority to contract for his employer or principal, or who has a stock of merchandise from which he regularly fills orders which he receives, such enterprise is deemed to have a permanent establishment in Canada and is, therefore, liable to Canadian taxation. However, the fact that an enterprise of one of the contracting countries has business dealings in Canada through a commission agent, broker or other independent agent, or maintains in Canada an office used solely for the purchase of merchandise, is not held to mean that the non-resident company has a permanent establishment in Canada.

NON-RESIDENT PERSONS

For purposes of this context, non-resident persons may be divided very broadly into three main classes: (1) non-resident persons carrying on business in Canada; (2) non-resident persons working in Canada; (3) non-resident persons receiving income from Canadian sources.

Non-Resident Persons Carrying on Business in Canada

A non-resident partnership or sole proprietorship is considered to become liable to Canadian income tax, in respect of business dealings with Canadian customers, in the same manner as a foreign company carrying on business in Canada through the medium of a branch organization. The definition of "carrying on business", as found in the section dealing with "Canadian branches of foreign companies", including modification for those business enterprises of U.S., British, French, Irish, Australian, New Zealand, Danish, Swedish, Dutch, Finnish or West German origin, is equally pertinent to the dealings of an unincorporated business enterprise.

Taxable income earned in Canada by a non-resident partner or sole proprietor is considered to be the part of his income for the year that may reasonably be attributed to the business carried on by him in Canada, minus the aggregate of such of the deductions from income permitted for determining taxable income as may reasonably be considered to be applicable.

The profits of a non-resident partnership or sole proprietorship from business carried on in Canada, whether or not that income is withdrawn by the owner or owners is, for Canadian taxation purposes, allocable to each owner in accordance with his agreed share of the profits. The profits become income of the owner(s) for the calendar year in which the fiscal year of the business ends.

A non-resident individual who is employed in Canada or who carries on business in Canada, either as a sole proprietor or as a member of a partnership, pays tax at the graduated rates only on his taxable income attributable to the employment or business in Canada. If he has investment income from Canadian sources not related to the business carried on in Canada, this investment income is not combined with the income from the employment or carrying on business in Canada, but, instead, is subject to the tax on non-residents withheld under Part III of the Act. (This same rule applies to non-resident corporations carrying on business in Canada.)

Non-Resident Persons Working in Canada

A person who "sojourns in Canada in a taxation year for a period of, or periods the aggregate of which is, 183 days or more", is deemed to be a resident of Canada and is taxable on income from all sources, both within and without Canada. A credit is allowed for taxes paid to a foreign government on income earned in such other country.

A non-resident who is present for less than 183 days is also liable to Canadian income tax, but only on that part of his income received for work performed in Canada during his stay in this country. Such income is taxable in a manner similar to the taxation of income in the hands of resident Canadians. This person is allowed to claim a pro rata portion of a full year's personal exemptions.

Liability may not arise in all cases, however. Exceptions are to be found in the tax agreements which Canada has concluded with the United States, Britain, France, Ireland, Australia, New Zealand, Sweden, Denmark, Netherlands, Finland and West Germany.

A resident of the U.S. is exempt from Canadian tax upon compensation for personal (including professional) services performed in Canada, if he is present in Canada for a period or periods not exceeding a total of 183 days during the taxation year, and either of the following conditions is met:

(a) his compensation is received for services performed as an officer or employee of a resident or corporation or other entity of the U.S., or of a permanent establishment in the U.S. of a Canadian enterprise, or

(b) his compensation does not exceed $5,000.

If he earns $5,000 or less, there is no question of whether such compensation is received from an American or Canadian entity. He is exempt from Canadian taxation on the amount received. Payment of an amount more than $5,000 still does not render him liable to Canadian income tax, provided the money was received from an American employer and he remained in Canada for a period not exceeding 183 days.

The earnings of a resident of Ireland for services in Canada are exempt under conditions similar to those providing an exemption for U.S. residents.

An individual who is a resident of Britain is exempt from Canadian tax on profits or remunerations in respect of personal (including professional) services performed in Canada in any taxation year, if -

(a) he is present in Canada for a period or periods not exceeding an aggregate of 183 days during that year, and

(b) his services are performed for, or on behalf of, any individual or company resident in Britain, and

(c) the profits or remuneration are subject to British tax.

It should be noted that he is exempt only where reimbursement is received from an individual or corporation resident in Britain. Any reimbursement received from a Canadian entity is subject to Canadian income tax.

The earnings of a resident of New Zealand for services performed in Canada are exempt from Canadian taxation under conditions similar to those pertaining to the exemption of British residents.

The earnings of a resident of Australia, Sweden or Denmark for services in Canada are exempt from Canadian taxation under similar conditions also, except that the convention makes no reference to the application of Australian, Swedish or Danish tax.

The earnings of a resident of France for services in Canada are exempt from Canadian taxation only where his reimbursement is received from an individual or corporation residing in France and he is employed in Canada on a "temporary mission of short duration". The phrase "temporary mission of short duration" is not defined.

The profits or remunerations for services rendered in Canada by a resident of the Federal Republic of Germany are exempt from Canadian taxation, with the exception that his compensation received for such activity may not exceed $3,000 gross.

Except for U.S., Ireland and The Netherlands, the exemptions noted above do not apply to actors, artists, musicians and professional athletes.

While there are certain situations, therefore, where the earnings of an employee temporarily resident in Canada are not subject to income tax in this country, the Department of National Revenue must have proof that the individual is exempt from such liability before permission is given to waive the deduction of tax at the source. (See section on Personal Income Tax.) Unless permission has otherwise been obtained, an employer is required to make authorized deductions on a monthly basis and forward the amounts so collected to the Receiver General of Canada. The tax deducted at the source and paid in by the employer will be refunded to the employee when he proves that he is entitled to exemption.

Non-Resident Persons Receiving Income From Canadian Sources

Persons residing outside Canada who receive income from Canadian sources, are required to pay a withholding tax on payments or amounts credited to their accounts in respect of dividends, interest, income from a trust or estate, rents, royalties, alimony, etc. Reference has already been made to such withholding taxes in a preceding section.

MISCELLANEOUS PROVINCIAL TAXES

Provincial taxes on capital, place of business, miles of tract, etc. (generally referred to as "corporation taxes", as opposed to corporation income taxes) are deductible in computing income for federal income tax purposes. Similarly provincial taxes on the income from mining operations are deductible in computing income for federal purposes. A tax credit may also be claimed in respect of provincial taxes on logging income. This credit is a deduction from federal income tax otherwise payable of an amount equal to 2/3 of a provincial tax on income from logging operations not exceeding 2/3 of 10% of the corporation's income from logging operations in the province.

It should be mentioned that taxes on the income of mining and logging operations are additional to revenues derived by all of the provinces from rentals, royalties, stumpage dues and other charges imposed at varying rates on mineral and forest reserves. Rentals, royalties, stumpage dues, etc., are normally deductible for federal income tax purposes.

Tax on Mining Operations

Eight of the ten provinces levy a tax, or royalty, on the income of firms engaged in mining operations.

British Columbia levies a tax at the rate of 10% on income in excess of $25,000. Manitoba - at the rate of 8% on income in excess of $10,000, although during the first year of production the tax is 6% only, and during the second year 7%. New Brunswick - at rates graduated from 7% on profits in excess of $10,000, to 9% on profits over $5,000,000. Newfoundland - at a rate of 5% - at the rate of 20% in the case of a mine from which iron ore is recovered, but not in any event to exceed the amount that would be paid if the tax was levied at the rate of 10 cents a ton on the first 1,500,000 tons of iron ore recovered, and 8 cents a ton on each additional ton of iron ore recovered. Ontario - at rates graduated from 6% on income between $10,000 and $1,000,000 - 11% on profits between $1,000,000 and $5,000,000, and 12% on profits in excess of $5,000,000. Quebec - at rates graduated from 4% on income of $10,000 and over, to 7% on income over $3,000,000. In Nova Scotia, gypsum producers pay a tax of 33 1/3% based on an arbitrary profit rate of $0.18 cents per ton e.g. - a tax of 6 cents per ton. In addition, royalties fixed by statute are paid by coal, gold, silver, iron, copper, lead and zinc mining operations. For coal the royalty is 12 1/2¢ per long ton; for the other minerals, it is fixed at 2% of the net return on sales, with one half of this refundable if processing within the province is carried beyond a defined point. Royalties on other minerals are fixed by Order-in-Council, but are of the same magnitude.

In Saskatchewan royalties are payable to the Crown for quartz mining operations commencing after January 1, 1947. The rate is 12½% of profits. However, no royalty is payable during the first three years of production, or until a net profit of $2 million is earned.

Tax on Logging Operations

The Provinces of British Columbia, Ontario and Quebec levy a tax on the income of firms engaged in logging operations. In British Columbia the tax is 10% on income in excess of $25,000. In Ontario and Quebec the rate is 9% on income in excess of $10,000.

Capital Taxes

The Province of Quebec imposes, in general, a tax of 1/10 of 1% on paid-up capital. Paid-up capital is defined as being the total of capital stock, earned surplus, reserve funds, bonds, debentures and mortgages, and loans and advances from other companies of a fixed nature, less certain deductions for goodwill and investments. The Province of Ontario imposes a general capital tax at the rate of 1/20 of 1% on taxable paid-up capital. However, this tax is subject to reduction, as it is one of the special taxes which, in aggregate, are payable only to the extent they exceed the amount of the provincial corporation income tax.

Place of Business Tax

The Provinces of Quebec and Ontario have a general place of business tax. In Quebec the tax ranges from $20.00 to $50.00 for each place of business, with higher amounts being levied in the cities of Montreal and Quebec. In Ontario, although reduced rates of tax apply to certain companies, the general rate of tax is $50.00 for each establishment, but it is payable only to the extent that the combined special taxes exceed the amount of the provincial corporation income tax. Banks, railways, telegraph companies, express companies, railway-car companies and insurance companies in Ontario are not subject to the general place of business tax or the general capital tax, but are liable for special taxes computed on varying bases to the extent that they, with the exception of the 2% tax on insurance premiums, exceed the provincial corporation income tax payable.

Land Transfer Tax

The Provinces of Alberta, Ontario and Quebec levy a tax based on the price at which ownership to land is transferred. In Alberta it is considered as an insurance against error in description and is referred to as an assurance fund on real value; the rate is 1/5 of 1% up to $5,000 - and 1/10 of 1% over $5,000; in Ontario a straight 1/5 of 1%; in Quebec the rate is 2.5% of the purchase price in the case of property transferred under Bankruptcy or Winding-up Acts.

The Provinces of British Columbia, Saskatchewan and Manitoba do not have a land transfer tax, but have an equivalent in the land titles fees which are based on land values. While the Province of Nova Scotia does not have a Land Transfer Tax, the County of Halifax levies such a tax at the rate of 1/2 of 1% of the total value.

Tax on Security Transfers

The Provinces of Ontario and Quebec levy a tax on the sale price of securities transferred. The rates in each province are:

Shares sold, transferred or assigned:

Value under $	1	- 1/10 of 1% of value
at	1 to 5	- 1/4 cent per share
"	5 to 25	- 1 cent per share
"	25 to 50	- 2 cents per share
"	50 to 75	- 3 " " "
"	75 to 150	- 4 " " "
over	150	- 4 " " " plus 1/10 of 1% of value in excess of $150

Bonds and debentures, 3 cents for every $100 or fraction thereof of par value.

Insurance Premium Tax

All the provinces have enacted a 2% tax on the premium income of insurance companies derived from business transacted within the province.

MUNICIPAL TAXES

Property Taxes

Property taxes in Canada are almost exclusively a municipal government levy. No provincial governments now impose a province-wide tax on real property, although certain provincial governments impose property taxes on land in unorganized territories and/or on other special classifications of land.

Municipal property taxes are based on the assessed value of real estate. Methods of determining value vary so widely that it would be impracticable to attempt to outline actual assessment practices.

It may be said, however, that in most centres the value of property for taxation purposes is considered to be a percentage of the real value. This percentage is frequently fixed by law although, in practice, the actual assessment usually does not come close to the percentage so specified. For example, in Montreal and Toronto 100% of the real value is considered to be taxable by law although, in actual practice, the percentage used is very much smaller.

The basis of assessment varies in another manner also. Edmonton, Saskatoon, Winnipeg and Vancouver, calculate assessment on the basis of a percentage of the real value of land, and use still another percentage of real value in arriving at an assessment in respect of buildings, etc. Halifax develops an assessment figure in respect of real property calculated on the basis of real value. Charlottetown levies a tax on both real property and personal property, with the same percentage of real value being used in calculating the assessment for both. Saint John, N.B., also levies a tax on both real property and personal property, but, in this instance, the percentage of real value used as the basis of assessment differs. St. John's, Nfld., bases its property tax on a percentage of the assessed rental value rather than a percentage of the real value.

Not only are there wide-spread differences in the tax bases but, of course, there are also differences in the rates of tax applied. However, the total amount of tax payable is usually commensurate with the services provided.

Property taxes are payable by the owner of the property.

Municipal taxes on business property are deductible for purposes of filing a federal income tax return.

Business Taxes

In the case of rented premises the business tax, unlike the property tax, is levied directly on the tenant.

The business tax is smaller than the property tax for most Canadian businesses. In Ontario, for example, the business tax ranges from 10% of the property tax for supervised parking lots to - with the exception of the tax on distillers of alcoholic beverages - a maximum of 75% of the property tax for several types of business, including financial institutions, wholesalers and general stores.

Three bases of assessment are in use: a fraction of the property assessment, the annual rental value of the premises, and, the area of the premises.

The area of the business premises is used as the basis for either a business tax or a business licence in the cities, towns and villages of Saskatchewan. In arriving at the amount of tax payable, different rates per square foot are used for different types of business.

The annual rental value of the premises is used as the bases of assessment in Alberta, British Columbia, Manitoba, Quebec, and in St. John's, Newfoundland. Each of the seven cities in Alberta, and the four cities in Manitoba, and St. John's, Newfoundland, have adopted such a system. In British Columbia, Vancouver, New Westminster, Victoria, Prince Rupert, Kitimat and Duncan, have chosen to utilize their rights in such respect. In Quebec over half the cities and one-third of the towns levy a business tax on such basis. The rate of tax usually varies with the type of business.

A fraction of the property assessment is universally employed as the basis for business tax in Ontario. In Halifax, the only municipality in Nova Scotia with a business tax, the same basis is used. This type of assessment is the bases in Charlottetown and Saint John also.

Municipal business taxes are deductible from gross income when filing a federal income tax return.

Business Licences

In many of the larger municipalities, businesses operating within the municipality are charged an annual licence fee. In many instances this fee is over and above property and business taxes, although in some cases the fee is designed to replace the business tax. This is particularly true in the case of a new business not entered on the assessment roll during the first year of operations.

The Alberta Government issues provincial business licences. Most of these licences are issued under the Licensing of Trades and Business Act and do not require renewal each year. Others, depending on the type of business, are renewed each year.

Business licence fees are deductible expenses for purposes of computing taxable income under the Federal Income Tax Act.

FOREIGN TAXES ON INCOME EARNED IN CANADA

Apart from measures of relief from double taxation as found in the conventions which Canada has concluded with the United States, Britain, France, Ireland, Australia, New Zealand, Sweden, Denmark, Netherlands, Finland, and West Germany, there are also specific provisions written into the income tax laws of these and most other countries with which a non-resident investor in a Canadian enterprise may be concerned. While these provisions vary from country to country it can be generally stated that Canadian taxes on income earned by foreign investors are normally available as a full or partial credit against taxes payable thereon in the investor's country of residence. In some cases, Canadian tax payments can be considered as a deductible expense in calculating the investor's tax liability in his country of residence.

In all cases investors are well advised to discuss the subject of tax liability on income earned abroad with tax authorities in their country of residence.

APPENDIX A

FEDERAL INCOME TAX ON PERSONAL INCOMES

1964

Taxable Income	Tax on Column 1	Rate on Excess
$ 1,000 or less	11%	
$ 1,000	$ 110	14%
$ 2,000	$ 250	17%
$ 3,000	$ 420	19%
$ 4,000	$ 610	22%
$ 6,000	$ 1,050	26%
$ 8,000	$ 1,570	30%
$ 10,000	$ 2,170	35%
$ 12,000	$ 2,870	40%
$ 15,000	$ 4,070	45%
$ 25,000	$ 8,570	50%
$ 40,000	$ 16,070	55%
$ 60,000	$ 27,070	60%
$ 90,000	$ 45,070	65%
$ 125,00	$ 67,820	70%
$ 225,000	$ 137,820	75%
$ 400,000	$ 269,070	80%

In addition to the above there is an Old Age Security Tax of 4% per annum, maximum $120.00. The maximum is reached at taxable income of $3,000.

APPENDIX B

RATES OF PERSONAL INCOME TAX - PROVINCE OF QUEBEC

Taxable Income	Tax on Column 1	Rate on Excess
$ 1,000 or less	2.5%	
$ 1,000	$ 25	2.8%
$ 2,000	$ 53	3.2%
$ 4,000	$ 117	3.6%
$ 6,000	$ 189	4.3%
$ 8,000	$ 275	5%
$ 10,000	$ 375	5.8%
$ 12,000	$ 491	6.6%
$ 15,000	$ 689	7.5%
$ 25,000	$ 1,439	8.3%
$ 40,000	$ 2,684	9.1%
$ 60,000	$ 4,504	9.9%
$ 90,000	$ 7,474	10.8%
$ 125,000	$ 11,254	11.6%
$ 225,000	$ 22,854	12.4%
$ 400,000	$ 44,554	13.2%

(as of January 15th, 1964)

APPENDIX C

List of Designated Areas

The following local office areas of the National Employment Service have been designated as Designated Areas:

Newfoundland

Corner Brook

Nova Scotia

New Glasgow
Sydney
Sydney Mines
Amherst
Springhill
Inverness
Liverpool

New Brunswick

Campbellton
Minto
St. Stephen
Sussex
Woodstock

Quebec

Rouyn
Shawinigan
Mont Laurier
La Tuque
St. Jean
Dolbeau
Jonquiere
Port Alfred
Louiseville
Causapscal
Matane
La Malbaie
Val d'Or

Ontario

Brantford
Cornwall
Windsor
Pembroke
Timmins
Wallacoburg
Elliot Lake
Chatham

Alberta

Blairmore

APPENDIX D

"Canadian Ownership"

The requirements which a company must meet to qualify for the 50% depreciation allowance on new machinery and equipment (except in the case of new enterprises located in designated areas) and for the reduction in the rate of withholding tax from 15% to 10% are as follows:

1. The company must be a resident of Canada.

2. Ownership of the company's shares must meet either of the following two conditions:

   A. No less than 25% of the company's voting shares must be owned by one or more individuals resident in Canada, one or more corporations controlled in Canada or by a combination thereof,

   OR

   B. The voting shares of the company must be listed on a stock exchange in Canada, and a non-resident company or an individual alone or with associated persons must not own more than 75% of the voting shares of the company. In other words there will be at least 25% of the voting stock available for Canadian investors.

3. Beginning in 1965, at least 25% of the directors of the company must be resident in Canada.

   A company will be considered as having the prescribed degree of Canadian ownership during a taxation year if, during the entire period of sixty days immediately preceding that year, it meets the three conditions outlined above as applicable.