DOING BUSINESS IN CANADA

TAXATION

INCOME, BUSINESS, PROPERTY

PREPARED BY

DEPARTMENT OF INDUSTRY

O T T A W A

FOREWORD

The information in this booklet deals with the incidence of taxation on income, business and property. It is intended as a guide in this field of taxation and, as such, refers only to the basic principles involved. Every effort has been made to accurately reflect the legislation in force at the time of preparing the material.

However, since the law contains a considerable amount of detail, it is suggested that an enquirer consult with relevant authorities or solicitors of his choice, or both, when seeking precise and detailed advice on a given problem.

While the Department of Industry is prepared to assist manufacturers requiring guidance on these matters, specific information can be obtained from any one of the district taxation offices of the Department of National Revenue located throughout the country. Head Office of the Department of National Revenue is in Ottawa.

Other publications available from the complete series of "Doing Business in Canada" are:

The Canadian Environment

Forms of Business Organization

Canadian Customs Duties

Taxation - Sales, Excise, Commodities

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Tariff Preferences for Canadian Goods Abroad

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TAXATION - 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 and 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 at 21% for 1965 and 24% for 1966 for income earned in all provinces except Quebec. For income earned in Quebec, the reduction is 44% for 1965 and 47% for 1966. The difference in abatement rates is necessary in order to compensate the Province of Quebec for providing schooling allowances and for opting out of certain shared-cost programs. 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%

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 imcome therein. In nine of the ten provinces, these taxes are computed as a percentage of the basic 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 4.8% on the first $1,000. of taxable income to a maximum of 35.2% 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 "A".

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 federal basic 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 basic tax for the year 1965:

Province		% of federal basic tax
Newfoundland		21%
Prince Edward Island		21%
Nova Scotia		21%
New Brunswick		21%
Quebec	Approximately	44%
Ontario		21%
Manitoba		26%
Saskatchewan		27%
Alberta		21%
British Columbia		21%

As indicated in the above table only the provinces of Manitoba and Saskatchewan levy provincial income taxes in excess of the 21% abatement of federal basic tax. For Quebec the abatement of federal basic tax for 1965 is 44%. The federal rates of income tax on personal incomes are outlined in Appendix "B".

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 deductions normally allowable are - interest on money and rental for property used in earning income; reserve for doubtful debts; bad debts; contributions to pension funds; 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 items generally deductible 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, sums transferred 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 normally 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 entitled to claim an amount in respect of depreciation on property used to earn income. In the Canadian law such an amount is referred to as a capital cost allowance. Assets are grouped into classes for purposes of capital cost allowances and each class carries a maximum rate of annual write-off, which is applied on the reducing balance basis.

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

Frame buildings and components	- 10%
Buildings in general and component parts	- 5%
Automobiles, trucks, etc.: mining machinery, equipment and buildings	- 30%
Certain contractors' equipment such as power-operated movable equipment for excavating or compacting earth, rock, concrete or asphalt	- 50%
Sundry, not included in specific groups (including machinery in general)	- 20%

Capital cost allowances are ordinarily calculated on a diminishing balance rather than a straight line principle. 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 deducted in computing profits as shown on the financial statement to shareholders.

Special Depreciation Allowance

Effective, June 14, 1963, bona fide manufacturers and processors located anywhere in Canada 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 period June 14th, 1963, to December 31, 1966. 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".

Incentives for Designated Areas

There are two programs of incentives available to manufacturing and processing industries located in designated areas. The areas which have been designated are listed in Appendix "D". At present, eligible firms within these areas are given the opportunity to choose either the income tax exemption under the Tax Incentives Program or the development grant under the Area Development Incentives Act.

I. Tax Incentives Program

Federal assistance under this program includes two measures concerning federal income tax -- special depreciation allowances and temporary federal income tax exemptions. These two incentive measures apply to new manufacturing and processing enterprises located in the designated areas. The special depreciation allowances under this program are as follows:

(a) most new machinery and equipment acquired by a new manufacturing or processing enterprise during the period December 5, 1963, to March 31, 1967, can be written off at a rate not in excess of 50% on a straight-line basis.

(b) new buildings and certain extensions acquired during the period December 5, 1963, to March 31, 1967, can be written off at a rate not in excess of 20% on a straight-line basis.

The special income tax exemption measure is as follows:

> New manufacturing and processing enterprises located in designated areas are eligible for exemption from federal income taxes for a period of 36 months from the date they commence commercial operation, provided this date is between December 5, 1963, and March 31, 1967.

II. Area Development Incentives Act

This Act provides for capital grants in respect of new manufacturing and processing facilities which establish in designated areas as well as to firms already located in these areas which undertake significant expansions there. This Act came into effect on July 1, 1965, and the benefits are available to eligible firms whose projects were not committed prior to that date and which enter production prior to expiry of the program on March 31, 1971.

The amounts of the grants will be directly related to the total investment in new buildings and equipment made by these enterprises. The development grants are exempt from federal income tax and do not reduce the amount of capital cost which may be used for tax purposes. A firm which qualifies for a grant may elect to take it in the form of a credit against its income tax liabilities.

Two of the major conditions for eligibility under the program are as follows:

(1) at least 95% of the value of all machinery and equipment must be unused prior to use in the facility, and

(2) at least 95% of the value of machinery, equipment, buildings and other fixed assets used in the facility must be located in the designated area.

Formulas for grants to new and expanding facilities are as follows:

Formula No. 1. For establishment of new facility:

1. Where the approved capital costs do not exceed \$250,000. the amount of the development grant shall not exceed an amount equal to 1/3 of the approved capital costs.

2. Where the approved capital costs exceed \$250,000. but do not exceed \$1,000,000. the amount of the development grant shall not exceed the aggregate of

   (a) 1/3 of \$250,000. and

   (b) 1/4 of the amount of the approved capital costs in excess of \$250,000.

3. Where the approved capital costs exceed \$1,000,000. the amount of the development grant shall not exceed the lesser of

   (a) the aggregate of

      (i) 1/3 of \$250,000.

      (ii) 1/4 of \$750,000.

      (iii) 1/5 of the amount of the approved capital costs in excess of \$1,000.000. or

   (b) \$5,000,000.

Formula No. 2. For expansion of existing facility:

The amount of a development grant for the expansion of an existing facility shall not exceed the lesser of

(a) the amount obtained when formula no. 1 is applied to the amount remaining after subtracting from the approved capital costs the greater of 10% of the value as determined by the Minister of the existing facility being expanded or $10,000.; or

(b) $5,000,000.

The foregoing is only an outline of these two programs. Firms proposing to take advantage of either program are advised to contact the Incentives Administration Division, Area Development Agency, Department of Industry, Ottawa.

Scientific Research

Income tax allowances for expenditures on scientific research have been growing in importance in recent years. Until quite recently, such deductions were restricted to actual expenditures, with those of a capital nature being amortized over three years. In addition, deductible allowances for such capital expenditures were limited to five per cent of the preceding year's taxable income, unless the research program had received prior approval. In June of 1961, these provisions were amended to allow 100 percent write-off of capital expenditures in a taxation year, and the five percent limitation was subsequently repealed.

In April of 1962, a special incentive measure allowing a deduction in excess of actual expenditures was introduced with respect to increased scientific research expenditures. Under this measure, a corporation is allowed a deduction from income (in calculating its federal tax liability) equal to 150 per cent of increased expenditures on scientific research carried on in Canada and related to its business. The deduction applies each year, during 1962 to 1966 taxation years, 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 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 on scientific research in Canada are considered as an "increase". Special rules are applicable in regard to associated corporations.

For purposes of this measure, "scientific research" means a systematic investigation or search by means of experimentation or analysis <u>in the field of science</u> 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 District Office of the Department of National Revenue where it files its corporation income tax return.

The Government has announced its intention to provide a general incentive for scientific research and development after 1966 (when the above program expires) which will take the form of a grant or a credit against tax liabilities equal to 25% of the defined amount of expenditures on scientific research or development carried out by a business. For 1966, a business will be permitted to elect whether to take advantage of the benefits available under the Income Tax Act or the benefits under the new program. Additional information may be obtained from the Office of the Industrial Research Adviser, Department of Industry, Ottawa.

<u>Federal Rates</u>

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 corporations are associated, they may allocate the whole $35,000. to one, or part of that amount to each. All of the associated corporations may thus calculate part of their tax at the 21% rate but, in total, they may not use the 21% rate on an amount in excess of $35,000.

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 (including the Old Age Security Tax) imposed by the federal government, under federal-provincial arrangements which commenced January, 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 the province of 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 year. 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, subject to prescribed conditions, 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.

A business operation under a partnership agreement or as a sole proprietorship is not subject to federal corporate income tax. 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, director's fees, the interest element of 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 pro-priertorship 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. Whether or not it is withdrawn, 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 types of expense as the corporate taxpayer, i.e., those incurred 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 $1,000. For a married person and those who have dependents, the exemption is $2,000., 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. Students are allowed to deduct tuition fees paid for recognized courses to gain a university degree, a high school matriculation certificate or to acquire a technical skill to improve their qualifications for employment or business.

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 and medical expenses, 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 and for annual trade union or professional dues. Medical expenses in excess of 3% of the taxpayer's income may be deducted. Employees may deduct up to \$1,500. 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 savings 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 TD1) 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 in Canada of property, (b) in respect of an invention used 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 as defined in the Income Tax Act.

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 guaranteed 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 subject to withholding tax. The term "dividend" includes all distributions of earnings or profits of a corporation. The rate of withholding tax is 15%. However, effective June 13, 1963, a special rate of 10% is applicable to dividends paid by corporations having a degree of Canadian ownership.

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

Canadian licensees, lessees and others making these payments to a non-resident company or individual must deduct 10% or 15%, 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 might usefully be a topic for discussion with taxation authorities. Management service may cover a 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. If there is doubt as to their deductibility, 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 desirability of a clear understanding 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 may consider that any profits which should have normally appeared in the accounts 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 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 price 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 determining 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 rate 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.

CARRYING ON BUSINESS IN CANADA

General

"Carrying on business in Canada" is broadly defined in the Income Tax Act. However, in considering the rules which apply in this regard, it should be kept in mind that these 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. As at October 1, 1965, Canada has double taxation agreements with Australia, Denmark, Federal Republic of Germany, Finland, France, Ireland, Netherlands, New Zealand, Sweden, Republic of South Africa, United States of America and Japan.

Foreign Companies Outside Double Taxation Agreements

Section 139(7) of the Income Tax Act which broadly defines the term "carrying on business in Canada" 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 "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".

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 a 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 and when required, is not a determining factor in ascertaining whether a foreign company is liable to federal income tax.

When 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 for 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, the United States of America and Japan. 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 the 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 countries under a double taxation agreement with Canada, 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 applicable deductions.

The profits on 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 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, France, Ireland, Australia, New Zealand, Sweden, Denmark, Netherlands, Finland, West Germany and Japan.

Under these agreements, there are certain situations where the earnings of an employee temporarily resident in Canada are not subject to income tax in this country. However, 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 resident outside Canada who receive income from Canadian sources, are required to pay (via deduction at source) 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 12 1/2% 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, is payable only to the extent it exceeds 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

Value	at	\$ 50 to 75	- 3 cents per share
"	"	75 to 150	- 4 cents per share
"	over	150	- 4 cents per share 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 government now imposes 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.

Municipal taxes on business property are payable by the owner of the property and 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 usually smaller than the property tax for most businesses. Methods of determining the amount of business tax vary so widely that it would be impractical to attempt to outline actual assessment practices. It may be said, however, that there are three bases of assessment in use: a fraction of the property assessment, the annual rental value of the premises, and the area of the premises.

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.

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 other countries, 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"

RATES OF PERSONAL INCOME TAX - PROVINCE OF QUEBEC

Taxable Income	Tax on Column 1	Rate on Excess
$ 1,000 or less	4.8%	
$ 1,000	48	6.2%
$ 2,000	110	7.5%
$ 3,000	185	8.4%
$ 4,000	269	9.7%
$ 6,000	463	11.4%
$ 8,000	691	13.2%
$ 10,000	955	15.4%
$ 12,000	1,263	17.6%
$ 15,000	1,791	19.8%
$ 25,000	3,771	22.0%
$ 40,000	7,071	24.2%
$ 60,000	11,911	26.4%
$ 90,000	19,831	28.6%
$ 125,000	29,841	30.8%
$ 225,000	60,641	33.0%
$ 400,000	118,391	35.2%

(for the taxation year 1965)

APPENDIX "B"

BASIC FEDERAL INCOME TAX ON PERSONAL INCOMES

1965

Taxable Income	Tax		
$ 1,000 or less	11%		
$ 1,000	110 + 14%	on next	$ 1,000
$ 2,000	250 + 17%	on next	$ 1,000
$ 3,000	420 + 19%	on next	$ 1,000
$ 4,000	610 + 22%	on next	$ 2,000
$ 6,000	1,050 + 26%	on next	$ 2,000
$ 8,000	1,570 + 30%	on next	$ 2,000
$ 10,000	2,170 + 35%	on next	$ 2,000
$ 12,000	2,870 + 40%	on next	$ 3,000
$ 15,000	4,070 + 45%	on next	$ 10,000
$ 25,000	8,570 + 50%	on next	$ 15,000
$ 40,000	16,070 + 55%	on next	$ 20,000
$ 60,000	27,070 + 60%	on next	$ 30,000
$ 90,000	45,070 + 65%	on next	$ 35,000
$ 125,000	67,820 + 70%	on next	$ 100,000
$ 225,000	137,820 + 75%	on next	$ 175,000
$ 400,000	269,070 + 80%	on remainder	

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.

The basic federal tax is subject to two general reductions:

(a) a deduction to take care of provincial tax. This deduction in 1965 is 21% of basic federal tax, in respect of income earned in all provinces except Quebec, for which it is 44% of basic Federal tax, and

(b) a tax reduction of 5% of basic Federal tax to a maximum of $300. in 1965 and 10% of basic Federal tax to a maximum of $600. thereafter.

APPENDIX "C"

The following is an abridged version of the actual requirements:

"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 on dividends from 15% to 10% are as follows:

1. The company must be a resident of Canada.

2. (A) No less than 25% of the company's issued and outstanding voting shares and no less than 25% of the equity share capital of the company must be owned in Canada (by individuals and/or by Canadian controlled companies).

OR

(B) A class or classes of voting shares and a class or classes of equity shares representing not less than 50% of the equity share capital of the company must be listed on a Canadian stock exchange and no more than 75% of the equity share capital, nor more than 75% of the voting shares must be owned abroad by one non-resident person or related persons.

... 2

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

To qualify as having a degree of Canadian ownership in a particular taxation year, a company other than a new corporation, must have met each of the three requirements described above throughout the last sixty days of the immediately preceding taxation year. However, because there may be cases where companies will experience difficulty in meeting the requirements in the initial years, the Act provides an alternative period which a company may use as its qualifying period for the 1963, 1964 and 1965 taxation years. If a company so elects it may, for the 1963 taxation year, use a sixty-day period commencing after June 13, 1963, and ending before May 1, 1964. For the 1964 and 1965 taxation years, an elective period is any sixty-day period commencing after June 13, 1963, and ending before January 1, 1965. In addition ... n years, a corporation may sel ... 20 day period commencing 60 ... year.

APPENDIX "D"

Eligible Areas Under the Area Development Incentives Act

The following National Employment Service office areas qualify for designation:

Newfoundland

Corner Brook

Grand Falls

St. John's (Labrador*)

Prince Edward Island

Charlottetown

Summerside

Nova Scotia

Amherst

Bridgewater

Inverness

Kentville

Liverpool

New Glasgow

Springhill

Sydney

Sydney Mines

Truro

Yarmouth

British Columbia

Kelowna

Penticton

Vernon

Alberta

Blairmore

New Brunswick

Bathurst

Campbellton

Edmundston

Minto

Moncton

Newcastle

St. Stephen

Sussex

Woodstock

Quebec

Alma

Causapscal

Quebec (Cont'd)

Chandler

Chicoutimi

Dolbeau

Gaspé

Jonquière

La Malbaie

La Tuque

Louiseville

Maniwaki

Matane

Mégantic

Mont Laurier

Montmagny

New Richmond

Port Alfred

Roberval

Rimouski

Rivière du Loup

... 2

Quebec (Cont'd)	Ontario (Cont'd)	Saskatchewan
Shawinigan	Owen Sound	Lloydminster
Ville St. Georges	Collingwood	North Battleford
Ontario	Midland	Prince Albert
Bracebridge	**Manitoba**	Yorkton
Elliot Lake	Brandon	
Parry Sound	Dauphin	
Sturgeon Falls	The Pas	

In addition, the following Counties and Census Divisions qualify for designation:

Queen's, N.B.	Census Division 12, Man.
Beauce, P.Q.	Census Division 18, Man.
Labelle, P.Q.	Census Division 19, Man.
Pontiac, P.Q.	Census Division 5, Sask.
Haliburton, Ont.	Census Division 10, Sask.
Parry Sound, Ont.	Census Division 13, Sask.
Manitoulin Island, Ont.	Census Division 12, Alta.
Census Division 10, Man.	Census Division 13, Alta.

* to include Lake Melville district and coastal settlements south of the 55th parallel.