Canadian Tax Update on Non-Resident Trusts

Tuesday 13th May 2014

SPEAKERS:
Michael Cadesky and Grace Chow
(Cadesky and Associates LLP)

Draft legislation was passed into law on June 26 2013 which significantly changes the way Canada taxes non-resident trusts. The legislation was the combination of a long process which began in February 1999 to tackle perceived abuses in the international area. The rules provide that trusts which are affected under the new rules, but which were not taxable under the old rules, have one year in which to make a timely filing (i.e. June 26 2014). It is therefore very important to understand the new rules to determine whether a trust might be affected. Canada has had a special exemption for non-resident trusts created by persons who are newcomers to the country. These trusts are eligible for a 60-month tax exemption (the so-called immigrant trust). In a surprise move, changes were announced on February 11 2014 to cancel the immigrant trust exemption. Even existing arrangements are caught by the change, such that immigrant trusts will become taxable on January 1, 2015. Any trusts created after February 11, 2014, or which receive contributions after that date, will become taxable as of January 1, 2014, or the date of creation, if later. These immigrant trusts have been widely used, and the change will be of considerable significance. All immigrant trusts will need to be analysed to determine how to deal with the change and to adopt a planning strategy in advance of 2015. Michael Cadesky and Grace Chow will given an overview of the rules and the planning alternatives to enable delegates to understand the important aspects of the changes, identify trusts which may be affected and consider the alternatives which are available. Since the changes cause the trust to be taxable, the onus of taking action rests on the trustee, so a proactive approach is warranted.
SPEAKERS

**Michael Cadesky**, FCPA, FCA, FTIHK, TEP, is Managing Partner of Cadesky and Associates LLP in Toronto, a firm specialising in Canadian and international tax. He has practiced in taxation for over 30 years and held many positions in professional bodies. He was the founding chair of STEP Canada and was also chairman of STEP Worldwide.

**Grace Chow**, CPA, CA, TEP, is a Founding Partner of Cadesky and Associates LLP, and is a noted author on Canadian tax subjects. She is co-author of "Taxation of Trusts and Estates, A Practitioner’s Guide", which provides a detailed commentary of Canada’s taxation rules. She is currently co-chair of STEP Worldwide Membership Committee, has served as a member of STEP Council and is a past chair of both STEP Canada and STEP Toronto (Canada’s largest branch).

CHAIRMAN

**Tony Pitcher** joined Barclays Wealth Advisory in 2011 as a Director. Tony qualified in 1986 as a member of the Institute of Chartered Accountants in England and Wales with Price Waterhouse. On qualifying, he joined Ernst & Young in tax specialising in advising settlors, beneficiaries and trustees on the UK tax implications of establishing and operating non-UK resident trusts, becoming a partner in 1993. Tony also worked with families and their advisers based in many jurisdictions, particularly Western Europe and North America, assisting them to achieve their estate planning objectives. On becoming a partner, Tony changed focus to administering complex trust and company structures for families with multi-jurisdictional connections. In 2000 the Ernst & Young trust business was acquired by a major international bank, and Tony became Managing Director of the Jersey trust business before leaving in 2007. Between 2007 and 2010 Tony was Managing Director of two independent trust companies. He is a past President of the Jersey Taxation Society and is currently Chairman of the Jersey branch of STEP, the Society’s largest branch with over 1,100 members. Tony has been named in the Citywealth Leaders List of Leading Trustees on many occasions and is currently included in the Honours List.
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