US Tax Update

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2012

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U.S. Personal Income Tax

- Taxation based on both **citizenship** and **residency**
  - US citizens and green card holders:
    - File US personal tax returns regardless of where they live in the world (Worldwide Income)
  - Physical presence:
    - more than 183 days in current year or
    - more than 183 total of current days, 1/3 of previous year and 1/6 of 2nd preceding year
  - Taxation of non-residents

U.S Personal Income Tax

- Watch
  - Capital gains exemption
  - Dividends - $30,000 tax free in Canada
  - Flow through shares
  - U.S. Source Income
  - Low/no Canadian tax

U.S. Personal Income Tax

- Two key parts to consider:
  - U.S. Individual Income Tax Returns
  - additional U.S, > Information Returns and Disclosures

U.S. Personal Income Tax

- Options for Non-filers:
  - 1) Do nothing
    - Passports, FATCA, US Slips
  - 2) Renounce
    - Tax implications
    - Have to be compliant
  - 3) File Returns
    - 1040 and additional information forms

U.S. Personal Income Tax

- File Returns (1040's and additional forms)
  - OVDI (Ended Sept 9th, 2011)
    - New OVDI Program
  - Just file (Quite Disclosure)
    - 1,3,6 years of tax returns
      - Returns and TDF form

U.S. Personal Income Tax

- TDF 90-22.1 - Report of Foreign Financial Accounts
- Form 5471 - Information Return With Respect To Foreign Corporations
- Form 3520 - Annual Return to Report Transactions With Foreign Trusts and Receipt of Certain Foreign Gifts Annual Information Return of Foreign Trust With a U.S. Owner
- Form 3520-A Annual Information Return of Foreign Trust With a U.S. Owner

U.S. Information Returns and Disclosures

Form 8938 Statement of Specified Foreign Financial Assets

- New form – tax years beginning after March 18, 2010
- Attach form to taxpayer's annual return
- Filing thresholds based on taxpayer's filing status and location (in US vs. living abroad)
- In addition to TDF 90-22.1
- Penalties $10,000 failure to file and potential criminal penalties

U.S Whistle Blowing Program

- IRS pays money to people who blow the whistle on persons who fail to pay the tax that they owe.
  - December 2006 – Bush sets incentives sky high
- Two types of awards
  - taxes, penalties, interest – exceed $2 million = 15-30 percent of the amount collected
  - other – maximum award of 15 percent up to $10 million
- 2007 a former UBS banker started providing inside information to the IRS (thousands of Americans hiding assets in secret Swiss accounts)

2009 and 2011 Offshore VD Program

- Offshore Voluntary Disclosure Program
  - Offered to those taxpayers with offshore accounts or assets
  - Provides a uniform penalty structure for taxpayers who came forward voluntarily
  - Initiatives offer consistency and predictability

2009 and 2011 Offshore VD Program

	2009 OVDI	2011 OVDI
Pre-clearance Process	Yes	Yes
Disclosure Period	6 years	8 years
Pay All Taxes Due	Yes	Yes
Penalty	20%	25%
Opt Out	No	Yes

2012 - New Offshore VD Program

- Announced January 9, 2012
  - Similar to the 2011 program
- Few Key differences:
  - No set deadline for people to apply
  - Program can change at anytime
  - 27.5% penalty (up from 25%)
- 2009 – $3.4 billion, 2011 - $1.0 billion so far

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Any Questions?

Thanks for your time!