
TAX UPDATE

January 6, 2012

Revised CRA Joint Venture Administrative Policy

As a follow up to the March 22, 2011 Federal budget proposals eliminating most deferrals of partnership income, the Canada Revenue Agency (CRA) recently revoked their longstanding administrative policy that permitted participants in a joint venture to establish a fiscal period that differed from its participants. Under the new policy, all income for taxation years ending after March 22, 2011 must be calculated for each joint venture participant based on their own fiscal period, and not the one established for the joint venture.

Due to the fact that this change in policy may result in joint venture participants having to include a significant incremental income inclusion in its first taxation year, the CRA announced on November 29, 2011 that it would allow transitional relief based on the actual additional income for the stub period. This relief will not result in additional income being included in the first taxation year of the participant that ends after March 22, 2011 resulting in an incremental income inclusion of: 0% in 2011, 15% in 2012, 20% in 2013, 2014 and 2015 and 25% in 2016. If the participant's first taxation year after March 22, 2011 ends in 2012, the incremental income inclusion will be 0% in 2012, 15% in 2013, 20% in 2014, 2015 and 2016, and 25% in 2017.

In order to benefit from the transitional relief, the joint venture participant will be required to file an election in writing, on or before the filing due date for that first taxation year. This should be done by attaching a letter to the income tax return for that year indicating that the participant is including income from the joint venture for which it is seeking the relief. If a tax return has already been filed, the taxpayer should send a letter to their Taxation Centre indicating their election to benefit from the new CRA policy. However, should the participant taxpayer fail to report the accrued income of the first taxation year ending after March 22, 2011, they will be considered ineligible for the transitional relief. In addition, the participant taxpayer cannot avail themselves of the transitional relief if they did not previously rely on the former administrative policy allowing them to calculate income based on a separate fiscal period established by the joint venture.

This revised policy may result in joint venture participants preparing financial statements for the joint venture as frequently as on a monthly basis in order to provide each participant with the necessary information required in order to calculate each participant's income from the joint venture that coincides with its taxation year-end.

As a result of the above, joint venture participants should carefully consider whether this particular structure will be effective and practical in the future.

For more information please contact your Lipton advisor.

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