



## Foreign Life Insurance and T1135 Reporting

Canadian residents are required to report their ownership interests in foreign property where the total cost amount of their "specified foreign property" exceeds \$100,000 as per section 233.3 of the Income Tax Act (ITA). Foreign life insurance policies are subject to these rules.

These rules have been in place since 1998, however, the level of detail required in the form used to report ownership interests (T1135 – Foreign income verification statement) has increased. In June 2013, the Canada Revenue Agency (CRA) issued a revised version of this form which applies to taxation years ending after June 30, 2013. Normally the deadline for filing this form is at the same time as the tax return for the year is due. For the 2013 taxation year only, the filing deadline was extended to July 31, 2014.

The new form requires that for each property, the taxpayer must state the country code, the maximum cost amount in the year, the cost amount at year-end and the income earned in the year on the property. For a foreign life insurance policy, the cost amount would follow the normal rules for determining the cost of a life insurance policy for Canadian tax purposes (i.e. "adjusted cost basis" (ACB) as defined in subsection 148(9) of the ITA). This was confirmed at the 2012 CALU CRA Roundtable (# 2012-0444711C6). [May 2012 AAMOT "Tax Update from the CALU Conference"](#).

Determining the ACB of a life insurance policy is not necessarily a simple exercise. Obtaining the information from a foreign life insurer may be difficult because they may not capture values and information relevant for Canadian purposes. Also, certain unanswered questions may arise. In calculating the maximum cost amount during the year (required on the form) fluctuations in the foreign currency and the cost amount during the year may mean that the maximum cost amount in Canadian dollars may arise at a different time than in the foreign currency.

ACB is determined by reference to a complex formula. The ACB will change with transactions affecting the life insurance policy. One of the main components of the ACB is premiums paid. Note however, only certain premiums count – premiums for the basic policy and term insurance riders would. Notable exclusions would be premiums for ancillary benefits like accidental death benefits, disability benefits, premium ratings for substandard lives, cost of conversion rights or guaranteed insurability benefits.

As noted above, the ACB will change with transactions affecting an insurance policy. Dividends in respect of participating policies and how they are used may impact the ACB in different ways. Policy loans, interest on policy loans and repayments also would have impacts. Policy gains in respect of a policy would also be added to the ACB. All of these would need to be reflected if the ACB of the foreign policy is to be calculated. As well, a reduction to the ACB for the Net Cost of Pure Insurance (NCPI) is a Canadian concept which would also have to be employed in calculating the ACB of a foreign policy for these purposes. Taxpayers may require help from actuarial professionals to work through these calculations.

The CRA did seem to have some recognition that this may not be an easy process. Their response in 2012 at CALU was: "The CRA would expect that the determination of the 'cost amount' of a 'specified foreign property' is made on the basis of all the information that can reasonably be obtained in a given situation. This would be a question of fact after a thorough review of the circumstances."

The form also requires the income earned in the year on the property be reported. In respect of a foreign life insurance policy, again, this is not an easy feat. In order to determine if there is income earned on the foreign policy, the Canadian resident policyholder would be required to determine if the foreign life insurance policy is an "exempt policy" and if not, the policy would be subject to accrual taxation under subsection 12.2 of the ITA. ([September 1999 – Foreign life insurance policies – Are they "Exempt" in Canada?](#) And [May 2010 – Foreign life insurance held by Canadians – The way it's always](#)

been)

Canadian life insurers will not be able to help Canadian residents in respect of this determination, nor would the foreign issuing company. Compliance and costs thereof can be onerous as professional actuarial services may be required to make these difficult determinations.

Failure to file the form, or filing the form with incorrect or missing information, may result in penalties under subsection 162(1) of the ITA. Generally, the fine is \$25 per day to a maximum of \$2,500 (plus interest).

And, these forms are one way for the CRA to keep tabs on what they think they might want to look into. The question "how would they know?" can often be countered with... "because you have to tell them!"

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