



January 6, 2006

Reference number: IFA 2005-0008

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Dear XXX:

Re: XXX

Thank you for your letter dated XXX requesting a technical interpretation, on behalf of XXX, with respect to the provisions of the *International Financial Activity Act* ("IFA Act"). I regret the delay in responding.

This letter responds to requests for interpretation of the provisions of the IFA Act with respect to certain activities that relate to XXX.

Section 9 of the IFA Act sets out the qualifications to apply to register a corporation. The corporation must be incorporated in Canada (not continued, amalgamated or transferred out of Canada), have a permanent establishment in British Columbia as defined in section 400 (2) of the *Income Tax Regulations* (Canada), and not be exempt from income tax under section 27 of the *Income Tax Act* (British Columbia). XXX.

For the purposes of the IFA Act, an "international financial business" (IFB) is a business carried on by a corporation through a fixed place of business in British Columbia as part of an active business of the corporation, and in respect of which the corporation carries on "international financial activities". Income derived from international financial activities may be eligible for the tax refund under the IFA Act even if the corporation carries on non-qualifying activities. For these purposes, "active business" and "business" have the same meaning as under section 248(1) of the *Income Tax Act* (Canada) (federal Act) and "international financial activity" has the same meaning as provided in section 2 of the IFA Act.

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A partnership does not qualify for registration under the IFA Act. However, in our view, a registered corporation that carries on an IFB through a partnership may be eligible for a tax refund under the IFA Act. The income or loss from the IFB that is carried on through a partnership would be included in calculating that corporation's IFB income, as determined under Subdivision b of Division B of Part I of the federal Act.

Section 2 of the IFA Act lists the activities that qualify as international financial activities. Section 2(2)(j) includes dealing in foreign exchange other than on the corporation's own account, if the corporation is a savings institution. XXX.

Section 2(2)(m) includes managing, for a fee or commission and for persons resident in Canada, investments in securities that are issued by a non-resident person and that are not listed on a prescribed stock exchange. Section 3200 of the Income Tax Regulations (Canada) provides that the prescribed stock exchanges are Tiers 1 and 2 of the TSX Venture Exchange (also known as Tiers 1 and 2 of the Canadian Venture Exchange), the Montreal Stock Exchange and the Toronto Stock Exchange. To qualify, the fees or commissions must be paid to a registered corporation for managing investments in securities of a Canadian resident. The investments must be issued by a non-resident person. Where a stock is listed on more than one stock exchange that includes a prescribed exchange, it will not qualify. Whether an activity relates to the management of investments for non-residents is a question of fact to be determined based on all of the circumstances.

Section 19(1) of the IFA Act defines IFB income as the income or loss, as determined under Subdivision b of Division B of Part I of the federal Act, of the IFB for that part of the taxation year that the corporation was a registered corporation. Any allocation method chosen to comply with the IFA Act should be reasonable in the circumstances and should substantiate the amount claimed.

We trust that the above comments are of assistance to you. This letter is not a ruling and consequently is not binding on the Ministry of Small Business and Revenue.

Yours truly,

Ian Forman
Executive Director
Income Taxation Branch