



February 6, 2007

Reference number: IFA 2007-0001

XXX

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”).

The technical interpretation requests relate to XXX, a wholly-owned subsidiary of XXX, a subsidiary of XXX. XXX is acting as a factor in purchasing accounts receivable from other subsidiaries of XXX.

An “international financial business” is defined under section 1 of the IFA Act as 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, if all the activities of the business are “international financial activities”. For these purposes, active business has the same meaning as under section 248(1) of the *Income Tax Act* (Canada) (the “federal Act”) and, “international financial activities” has the meaning as provided in section 2 of the IFA Act.

For the purposes of the federal Act, the Canada Revenue Agency has interpreted “active income” to include income from a non-arm’s length factoring arrangement on terms comparable to those between arm’s length parties, carried out on a regular and ongoing basis. We agree with this interpretation for the purposes of applying the IFA Act.

Section 2 of the IFA Act lists the activities that qualify as international financial activities for the purposes of the Act, including in section 2(2)(o), collecting trade accounts that are receivable from a non-resident person and have been bought outright from the seller and without recourse to the seller (commonly known as factoring).

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It is our view that section 2(2)(o) of the IFA Act, in referring to the term “without recourse”, requires the purchaser to assume the financial risks associated with the collection of the debt, such as the insolvency of the debtor. It does not require the purchaser to also assume risks associated with defective products nor to assume risks associated with breaches in representations, warranties or covenants by the vendor.

For the purposes of section 2(2)(o) of the IFA Act, trade accounts receivable may be purchased from a resident or non-resident, on an arm’s length or non-arm’s length basis, so long as the ultimate obligation to pay the debts which have been purchased rests with the non-resident person.

Section 2(2)(t) of the IFA Act and IFA Regulation 4(9) provide that collecting trade accounts receivable from a non-resident person that is conducted exclusively for non-resident persons and from which the corporation earns fee or commission income is an international financial activity.

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).

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 international financial business as if the business’s income for the taxation year was only from international financial activities other than patent activities for that part of the taxation year that the corporation was a registered corporation.

To the extent that there is a high degree of correlation between the change in value of the portfolio of receivables attributable to changes in forward exchange fluctuations that qualify as international financial activities and the change in value of the forward contracts, the gains or losses incurred with respect to the settlement of those forward contracts that are included in income or loss for the purposes of Subdivision b of Division B of Part I of the federal Act will be considered part of IFB income, as defined in section 19(1) of the IFA Act.

Section 20 provides that in determining IFB income, transactions between related parties and affiliated corporations must be valued at fair market value. If the transaction is not at fair market value the Commissioner may set the transaction price to reflect fair market value.

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,

Jeffrey S. Krasnick, CA

A/Director
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Income Taxation Branch