



August 14, 2009

Reference number: IFA 2009-0001

XXX

Dear XXX:

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

The technical interpretation requests relate to the hypothetical fact pattern outlined in your letter.

FACTS

The facts as we understand them are:

1. Bank A, a Schedule I financial institution (i.e., Canadian domestic bank)
 - is a registered corporation under the IFA Act;
 - continues to meet registration requirements; and
 - carries on an international financial business.

2. Bank A performs the following services for a fee on behalf of a Canadian Resident account holder:
 - direct deposit service
 - direct payment service
 - wire transfers
 - non-resident lock box
 - non-resident accounts payable
 - non-resident accounts receivable

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3. Bank A is claiming the fees earned for the exchange of Canadian dollars to/from a foreign currency in respect of the services provided as noted under 2. above, under section 2(2)(j) of the IFA Act.

ACT AND REGULATION

An “international financial business” (IFB) is defined under section 1 of the IFA Act as follows:

“international financial business”, in relation to a corporation, means a business

- (a) that is a qualifying business carried on by the corporation through a fixed place of business in British Columbia, and
- (b) all the activities of which are international financial activities;

To be a “qualifying business”, a corporation will have to satisfy one of the following criteria establishing a substantial British Columbia presence:

- the corporation carries on an active business¹,
- the corporation carries on a separate business within a corporation that carries on an active business where that separate business earns income principally from property (such as treasury activities), other than from property used in or incident to the active business, or
- the corporation is affiliated with another corporation that carries on an active business, the corporation pays at least \$300,000 in annual salary and wages to employees employed in the active conduct of the corporation’s qualifying business and the corporation has “capital employed in BC”² of at least \$10 million.

The IFA Act defines “business” as having the same meaning as under section 248(1) of the federal Act, except it does not include an adventure or concern in the nature of trade. To qualify as an international financial business, “all the activities” of the “business” must be “international financial activities”. For this purpose, “international financial activities” has the meaning as provided in section 2 of the IFA Act.

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¹ For this purpose, active business has the same meaning as under section 248(1) of the *Income Tax Act* (Canada) (federal Act).

² Defined to mean an amount equal to the total capital stock of the corporation multiplied by the corporation’s BC taxable income for the year divided by the Corporations federal taxable income for the year.

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. Any allocation method chosen to comply with the IFA Act should be reasonable in the circumstances and should substantiate the amount claimed.

INTERPRETATION

The letter requests our interpretation whether the services noted under Item 2 of the "Facts" above qualify as international financial activities under:

- section 2(2)(a) accepting deposits in any currency from a non-resident person, and;
- section 2(2)(b) making deposits in any currency with a non-resident person.

It is assumed under Item 3 of the "Facts" that Bank A is claiming an IFA refund on fees earned for the exchange of foreign currency to Canadian dollars or vice versa under:

- section 2(2)(j) dealing in foreign exchange other than on the corporation's own account, if the corporation is a saving institution, a corporation whose primary business is dealing in foreign exchange, or a prescribed corporation.

The following are international financial activities that are provided on a fee or commission basis for non-residents:

- section 2(2)(k), managing foreign exchange activities
- section 2(2)(l), managing investments
- section 2(2)(t), collecting trade accounts receivable from non-residents

Section 2(2)(m) of the IFA Act, managing investments in securities issued by a non-resident that are not listed on a Canadian stock exchange, is the only qualifying international financial activity that is on a fee or commission basis in respect of services provided to residents in Canada.

The activities described in Item 2 of the "Facts" are services provided for a fee for a Canadian resident client of Bank A. As these activities are not specifically listed as international financial activities under section 2 of the Act, they do not qualify.

While certain steps (see Appendix) within the services that are provided by Bank A may involve transfers of funds to or from foreign bank accounts of non-residents of Canada, these steps are integral to the services that are being provided and are not the activities of “accepting or making deposits” as required under sections 2(2)(a) or (b).

The fee-based income earned by Bank A for the exchange of Canadian dollars to/from the foreign currency would likely qualify under section 2(2)(j) of the IFA Act for inclusion as IFB income, on the assumption that Bank A was otherwise carrying on a international financial business as stated under Item 1 of the “Facts”.

We trust that the above comments are of assistance. This letter is not a ruling and consequently is not binding on the Ministry of Finance.

Yours truly,

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APPENDIX

Bank A performs the following services, for a fee, on behalf of a Canadian Resident account holder (Company X):

Type of service	Description of service
Direct Deposit Service	- collecting funds from foreign bank account of non-resident of Canada and depositing funds into Company X's account Example of service: utility payment, where the non-resident pays a utility company bill
Direct Payment Service	- transferring funds to a foreign bank account of non-resident of Canada from Company X's account Example of service: transfer of payroll payments to a non-resident bank
Wire Transfers	- receiving funds from non-resident accounts for Company X through the international funds transfer system - transferring funds from Company X's account to a foreign bank account through the international funds transfer system
Non-resident Lock Box	- receiving cheques drawn on foreign bank accounts from non-residents, at a central postal location in a foreign country, and transferring the amounts to Company X's account
Non-resident Accounts Payable	- paying account payables on behalf of Company X to non-residents by transferring funds to foreign bank accounts
Non-resident Accounts Receivable	- receiving accounts receivable on behalf of Company X from foreign bank account of non-resident and transferring the amounts to Company X's account