

E-Commerce.....	3-22
SUMMARY	3-23
Chapter Four – Doing Business in the United States No U.S. Permanent Establishment	
GENERAL DISCUSSION	4-1
U.S. TAXATION	4-2
Federal	4-2
Calculation of Taxable Income and Tax.....	4-2
Distributions to Owners.....	4-2
Compliance	4-2
Treaty-Based Compliance.....	4-3
Protective Compliance	4-4
State	4-6
CANADIAN TAXATION	4-8
Federal	4-7
Calculation of Taxable Income.....	4-8
Calculation of Tax.....	4-8
Provincial	4-8A
RESTRUCTURING.....	4-9
E-Commerce	4-10
COMPLETE TERMINATION (LIQUIDATION).....	4-10
SUMMARY	4-10
Chapter Five – Doing Business in the United States Through U.S. Permanent Establishment	
GENERAL DISCUSSION	5-1
U.S. TAXATION	5-2
Federal	5-2
Calculation of Taxable Income.....	5-2
Branch as a Result of a Fixed Base.....	5-3
Research and Experimental Expenditure Allocations	5-4
Interest Expense Allocations	5-4
Interest Expense Deductions	5-6
Branch as a Result of Individuals	5-6
Calculation of Tax.....	5-7
Branch Profits Tax.....	5-7
Distributions to Owners.....	5-8
Compliance	5-8
Internal Revenue Service.....	5-8

U.S. Department of Commerce and Others.....	5-14
State	5-14
CANADIAN TAXATION	5-16
Federal	5-16
Calculation of Taxable Income.....	5-16
Calculation of Tax.....	5-19
Provincial	5-20
RESTRUCTURING (INCORPORATION).....	5-20A
COMPLETE TERMINATION (LIQUIDATION).....	5-24
SUMMARY	5-24

Chapter Six – Doing Business in the United States Through U.S.- Incorporated Entity

GENERAL DISCUSSION	6-1
U.S. TAXATION	6-2
Federal	6-2
Calculation of Taxable Income.....	6-2
Intercompany Transactions and Transfer Pricing.....	6-3
General Principles	6-4
Intercompany Services – Management Fees	6-6
Intercompany Receivables and Payables.....	6-8
Intercompany Sales – Tangible Property	6-11
Consolidation of U.S. Corporate Group	6-20
Calculation of Tax.....	6-21
General	6-21
Special Taxes.....	6-21
Distributions to Owners.....	6-23
Earnings and Profits.....	6-24
Compliance	6-26
Internal Revenue Service.....	6-26
U.S. Department of Commerce and Others.....	6-26.3
State	6-27
CANADIAN TAXATION	6-28
Federal	6-28
Calculation of Taxable Income and Tax	6-28A
Provincial	6-29
RESTRUCTURING.....	6-29
COMPLETE TERMINATION (LIQUIDATION).....	6-30
SUMMARY	6-33

Chapter Seven – Summary and Comparison of Alternative Structures 7-1**Chapter Eight – Financing the U.S. Business**

GENERAL DISCUSSION	8-1
FINANCING A PERMANENT ESTABLISHMENT	8-2
FINANCING A U.S. SUBSIDIARY	8-3
Stock	8-3
Loans to U.S. Subsidiary	8-5
Characterization of Financing	8-5
Rate of Interest Charged	8-8
Restrictions on Interest Deductibility	8-9
Capitalization of Interest.....	8-9
Acquisition Indebtedness	8-10
Cash Method of Accounting	8-11
“Earnings Stripping” Provisions	8-12
Loan Guarantees	8-13
Withholding Tax – “Conduit” Rules	8-14
ACCESSING CASH FROM U.S. OPERATIONS	8-16
Permanent Establishments	8-16
Subsidiary	8-16
Distribute Capital and Earnings.....	8-16
Loans from Subsidiary	8-18
Loans at Zero or Below-Market Rates.....	8-19
Foreign Affiliate Dumping.....	8-19
SUMMARY	8-20

Chapter Nine – Real Estate Investment in the United States

GENERAL DISCUSSION	9-1
DIRECT OWNERSHIP – NO U.S. TRADE OR BUSINESS.....	9-2
Net Basis Election	9-3
Investment in Unimproved Land.....	9-5
DIRECT OWNERSHIP – U.S. TRADE OR BUSINESS	9-6
TRADE OR BUSINESS – THROUGH U.S.-INCORPORATED	
ENTITY	9-7
PASSIVE LOSS RESTRICTIONS	9-10
PARTNERSHIP TAXATION	9-10
Partnership Withholding.....	9-11
Partnership Compliance.....	9-12
DISPOSITION OF REAL PROPERTY INTERESTS.....	9-13

SUMMARY	9-15
---------------	------

Appendix I – Basic Canadian Income Taxation

GENERAL	I-1
FEDERAL	I-2
Calculation of Taxable Income	I-2
Gross Income	I-2
Investment Income.....	I-2
Capital Gains	I-2
Business Income.....	I-3
Deductions.....	I-3
Inventory Valuation	I-4
Salaries & Wages	I-4
Meals & Entertainment	I-4
Depreciation.....	I-4
Amortization.....	I-5
Interest	I-6
Taxes.....	I-6A
Losses	I-7
Bad Debts	I-8
Charitable Contributions.....	I-8
Research & Development Costs	I-8
Repairs & Maintenance	I-8
Dividends Received from Other Canadian Corporations	I-9
Consolidation.....	I-9
Tax Rates	I-9
Federal Tax Rate	I-10
Provincial Abatement.....	I-10
Manufacturing and Processing Deduction	I-11
Small Business Deduction	I-12
Tax Credits	I-13
Research and Experimental Credit.....	I-13
Investment Tax Credit	I-13
Foreign Tax Credit.....	I-13
Foreign Affiliates.....	I-16
Reporting for Foreign Affiliates	I-20
PROVINCIAL TAXATION	I-21
Jurisdiction to Tax.....	I-21
Calculation of Taxable Income.....	I-22

Differences from Federal	I-22
Allocation Among Provinces.....	I-22
Rate of Tax	I-22
COMBINED TAX RATES – FEDERAL AND PROVINCIAL	I-23

Appendix II – Basics of U.S. Income Taxation

NOTE TO READER	II-1
GENERAL	II-1
FEDERAL	II-2
Taxation Year and Accounting Methods.....	II-2
Calculation of Taxable Income.....	II-3
Gross Income	II-3
Investment Income.....	II-4
Capital Gains	II-5
Business Income.....	II-6
Treaty Modifications	II-6
Deductions	II-7
Inventory Valuation.....	II-8
Income Attributable to Domestic Production Activities	II-9
Salaries & Wages	II-9
Meals & Entertainment	II-10
Depreciation.....	II-10
Amortization.....	II-12
Interest.....	II-12B
Earnings Stripping Provisions.....	II-13
Taxes.....	II-14.2
Losses	II-14.2
Bad Debts	II-15
Charitable Contributions.....	II-15
Research & Experimental Costs	II-15
Repairs & Maintenance	II-16
Dividends Received from Other U.S. Corporations.....	II-16
Capitalization of Costs.....	II-17
Consolidation.....	II-18
Tax Rates	II-18
Basic.....	II-18
Special Taxes.....	II-19
Accumulated Earnings Tax	II-19
Personal Holding Company Tax	II-20

Alternative Minimum Tax.....	II-22
Estimated Tax Payments	II-23
Tax Credits	II-23
Research and Development Credit.....	II-23
Investment Tax Credit	II-24.1
Special Provisions for Branch Taxation	II-24.1
Research & Development.....	II-24A
Interest.....	II-25
Branch Profits Tax.....	II-30
Liquidation/Incorporation of a Branch	II-32
STATE TAXATION.....	II-33
Jurisdiction to Tax.....	II-34
Calculation of Taxable Income.....	II-35
Differences from Federal	II-35
Allocation Among States.....	II-36
Unitary and Combined Reporting.....	II-37
Rate of Tax	II-38
Non-Income-Tax Considerations	II-38
COMBINED RATES – FEDERAL AND STATE.....	II-39
Appendix III – Canadian-Owned U.S. Operations U.S. Tax Rates Combined Federal and State	
EFFECTIVE TAX RATES	III-3
Appendix IV – Sample Required Statements and Elections	
Form 8833: No Permanent Establishment	IV-3
Form 8833: U.S. Branch Tax.....	IV-6A
SAMPLE: PROTECTIVE FILING STATEMENT.....	IV-7
SAMPLE: STATEMENT REQUIRED TO ELECT NET BASIS TAXATION FOR REAL PROPERTY.....	IV-9
Appendix V – Reporting and Record-keeping Requirements U.S. Corporation or U.S. Branch	
GENERAL	V-1
REPORTING REQUIREMENTS.....	V-2
Reporting Corporation.....	V-2
Foreign Related Party	V-2
Reportable Transactions	V-3
Transactions Solely for Monetary Consideration.....	V-4

Non-Monetary Transactions/Transactions for Less than Full Consideration in Money	V-4
Branch Reporting	V-5
RECORD MAINTENANCE REQUIREMENTS	V-6
General	V-6
Safe Harbour	V-6
Records Maintained in the United States	V-8
Exceptions	V-8
Penalties	V-8

Appendix VI — Canada-U.S. Income Tax Treaty

CANADA — UNITED STATES INCOME TAX CONVENTION, 1980.....	VI-3
INTERNAL REVENUE SERVICE PUBLICATION 597: INFORMATION ON THE UNITED STATES-CANADA INCOME TAX TREATY	VI-299

Appendix VII — Internal Revenue Service Publications

Publication Number		
505	Tax Withholding and Estimated Tax: For Use in 2024 (March 5, 2024).....	VII-101
509	Tax Calendars for Use in 2024 (Dec. 7, 2023).....	VII-201
515	Withholding of Tax on Nonresident Aliens and Foreign Entities: For Use in 2024 (Feb. 9, 2024).....	VII-301
534	Depreciating Property Placed in Service Before 1987 (Nov. 2016)	VII-401
542	Corporations (Feb. 9, 2024)	VII-501
583	Starting a Business and Keeping Records	VII-601
925	Passive Activity and At-Risk Rules: For Use in Preparing 2023 Returns (March 1, 2024)	VII-701
946	How to Depreciate Property: For Use in Preparing 2022 Returns (Feb. 14, 2024)	VII-731

Appendix VIII – Internal Revenue Service and U.S. Department of Commerce Forms and Instructions

Form Number		
TD F 90-22.1	Report of Foreign Bank and Financial Accounts (FBAR) (Jan. 2012)	VIII-4.1
SS-4	Application for Employer Identification Number (Dec. 2023)	VIII-5
	Instructions for Form SS-4 (Dec. 2023)	VIII-7
W-8BEN	Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Reporting (Oct. 2021)	VIII-15
	Instructions for Form W-8BEN (Oct. 2021)	VIII-16
W-8ECI	Certificate of Foreign Person's Claim That Income is Effectively Connected With the Conduct of a Trade or Business in the United States (Oct. 2021)	VIII-20.3
	Instructions for Form W-8ECI (Oct. 2021)	VIII-20.4
W-8IMY	Certificate of Foreign Intermediary, Foreign Flow-Through Entity, or Certain U.S. Branches for United States Tax Withholding and Reporting (Oct. 2021)	VIII-20.9
	Instructions for Form W-8IMY (Oct. 2021)	VIII-20.17
851	Affiliations Schedule (Oct. 2016)	VIII-21
926	Return by a U.S. Transferor of Property to a Foreign Corporation (Nov. 2018)	VIII-31
	Instructions for Form 926 (Nov. 2018)	VIII-33
966	Corporation Dissolution or Liquidation (Oct. 2016)	VIII-41
1042	Annual Withholding Tax Return for U.S. Source Income of Foreign Persons (2023)	VIII-51
	Instructions for Form 1042 (2023)	VIII-53
1042-S	Foreign Person's U.S. Source Income Subject to Withholding (2024)	VIII-65
	Instructions for Form 1042-S (2024)	VIII-67
1042-T	Annual Summary and Transmittal of Forms 1042-S (2023)	VIII-90.15
1065	U.S. Return of Partnership Income (2023)	VIII-91
	Instructions for Form 1065 (2023)	VIII-97

TABLE OF CONTENTS

xv

1120-W	Estimated Tax for Corporations (2022).....	VIII-140.9
	Instructions for Form 1120-W (Oct. 2021) ...	VIII-140.12
1122	Authorization and Consent of Subsidiary	
	Corporation to be Included in a	
	Consolidated Income Tax Return (Dec. 2003)	VIII-141
3115	Application for Change in Accounting Method	
	(Dec. 2022)	VIII-161
	Instructions for Form 3115 (Dec. 2022).....	VIII-169
4562	Depreciation and Amortization (Including	
	Information on Listed Property) (2023)	VIII-201
	Instructions for Form 4562 (2023).....	VIII-203
4626	Alternative Minimum Tax – Corporations (2023)	
	VIII-223
	Instructions for Form 4626 (2023).....	VIII-230
5452	Corporate Report of Nondividend Distributions	
	(Oct. 2018).....	VIII-239
7004	Application for Automatic Extension of	
	Time to File Certain Business Income Tax,	
	Information, and Other Returns (Dec. 2018)	VIII-261
	Instructions for Form 7004 (Dec. 2018).....	VIII-263
8109-B	Federal Tax Deposit Coupon	VIII-281
8275	Disclosure Statement (Aug. 2013).....	VIII-301
	Instructions for Form 8275 (Jan. 2021).....	VIII-303
8275-R	Regulation Disclosure Statement (Aug. 2013)	VIII-321
	Instructions for Form 8275-R (Jan. 2021).....	VIII-323
8288	U.S. Withholding Tax Return for Certain	
	Dispositions by Foreign Persons (Jan. 2023).....	VIII-341
	Instructions for Form 8288 (Jan. 2023).....	VIII-342
8288-A	Statement of Withholding on Certain	
	Dispositions by Foreign Persons (Jan. 2023).....	VIII-353
8288-B	Application for Withholding Certificate for	
	Dispositions by Foreign Persons of U.S.	
	Real Property Interests (Feb. 2016).....	VIII-363
8804	Annual Return for Partnership Withholding	
	Tax (Section 1446) (2022).....	VIII-441
	Instructions for Forms 8804, 8805, and	
	8813 (Nov. 2022)	VIII-443
	Country Codes (Aug. 29, 2022)	VIII-449
8805	Foreign Partner's Information Statement of	
	Section 1446 Withholding Tax (2019)	VIII-461

8810	Corporate Passive Activity Loss and Credit Limitations (2023).....	VIII-481
	Instructions for Form 8810 (2023).....	VIII-482
8832	Entity Classification Election (Dec. 2013)	VIII-493
U.S. DEPARTMENT OF COMMERCE		
BE-13	Survey of New Foreign Direct Investment in the United States – Claim for Exemption, Mandatory – Confidential (Rev. October 2022)	VIII-501
	Instructions for Form BE-13	VIII-507
BE-13 Supp C	Exemption Claim	VIII-511
BE-15	Annual Survey of Foreign Direct Investment in the United States – 2023 – Claim for Exemption from Filing Form BE-15A, BE-15B, or BE-15C, Mandatory – Confidential (Rev. October 2023)	VIII-541
Form 1120 U.S. Corporation Income Tax Return (2023) 1120-1		
Schedule PH (Form 1120) U.S. Personal Holding Company		
	(PHC) Tax (2015)	1120-5
	Instructions for Form 1120 (2023).....	1120-7
	Instructions for Schedule PH (Form 1120) (Dec. 2016)	1120-35
Form 1120-F U.S. Income Tax Return of a Foreign Corporation (2023) .. 1120F-1		
	Instructions for Form 1120-F (2023)	1120F-9
Form 5472 Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business (Dec. 2023) 5472-1		
	Instructions for Form 5472 (Jan. 2024).....	5472-4
Form 8833 Treaty-Based Return Position Disclosure Under Section 6114 or 7701(b) (Dec. 2022)..... 8833-1		
Index	50-1

[Next page is xix]