

TOPICAL INDEX

[Current to release 2024-1]

NOTE: All references are to sections of the book and not to page numbers.

A

Accumulated earnings tax, 10.3.2[h]

Active conduct, 29A.3.2[b]

Active trade or business, 29A.3.2[b], 29A.5.2[h]

Agency, permanent establishment, 5.2.2[f], [h]

Agent, 10.2.2[b]

Aiken Industries, Inc. case, 29A.3.1[b]

Alien spouse, transfers to, 29B.3.1[g]

Alienation, 13.2.2[a]

Anti-abuse provision, 29A.2.2[b], 29A.3.2[e]

Anti-avoidance measures, 4.5.2[d], 7.2.2[b], 10.2.2[b], 11.2.2[b], 12.2.2[b], 29A.2.1, *see also* **General anti-avoidance rule**

- common-law and statutory anti-avoidance rules, 29A.2.1[a]

Anti-deferral regimes, 24.3.1[a]

Anti-hybrid provisions, 12.3.1[f]

Anti-treaty shopping rule, 29A.1

Article I, 1.0

- Explanation & Interpretation under Canadian and U.S. Law, 1.2, 1.3
- Treasury Department Technical Explanations, 1.4

Article II, 2.0

- Explanation & Interpretation under Canadian and U.S. Law, 2.2, 2.3
- Treasury Department Technical Explanations, 2.4

Article III, 3.0

- Explanation & Interpretation under Canadian and U.S. Law, 3.2, 3.3
- Treasury Department Technical Explanations, 3.4

Article IV, 4.0

- Explanation & Interpretation under Canadian and U.S. Law, 4.2, 4.3
- Treasury Department Technical Explanations, 4.4

TOPICAL INDEX

Article V, 5.0

- application to partnerships, 5.2.2[j]
- construction services, 5.2.2[j]
- coordination with other provisions, 5.2.2[j]
- counting days, 5.2.2[j]
- Explanation & Interpretation under Canadian and U.S. law, 5.2, 5.3
- extension to non-treaty countries, 5.2.2[k]
- recipients of services, 5.2.2[j]
- tax compliance, 5.2.2[j]
- third party tests, 5.2.2[j]
- Treasury Department Technical Explanations, 5.4

Article VI, 6.0

- Explanation & Interpretation under Canadian and U.S. Law, 6.2, 6.3
- Tax Cuts and Jobs Act 2017, 6.1.1
- Treasury Department Technical Explanations, 6.4

Article VII, 7.0

- Base Erosion and Profit Shifting (BEPS), 7.1.2
- Corporate Transparency Act, 7.1.4, 7.3.1[e]
- e-commerce taxation, 7.1.3, 7.6 *see also* **E-commerce Taxation**
- Explanation & Interpretation under Canadian and U.S. Law, 7.2, 7.3
- Tax Cuts and Jobs Act 2017, 7.1.1
- Treasury Department Technical Explanations, 7.1.1

Article VIII, 8.0

- Explanation & Interpretation under Canadian and U.S. Law, 8.2, 8.3
- Treasury Department Technical Explanations, 8.4

Article IX, 9.0

- Explanation & Interpretation under Canadian and U.S. Law, 9.2, 9.3
- proposed amendments to transfer pricing rules, 9.1.2, 9.2.1[f]
- recent cases, 9.2.1[e], 9.3.2[d]
- Tax Cuts and Jobs Act 2017, 9.1.1
- Treasury Department Technical Explanations, 9.4

Article X, 10.0

- Corporate Transparency Act, 10.1.2
- Explanation & Interpretation under Canadian and U.S. Law, 10.2, 10.3
- Tax Cuts and Jobs Act 2017, 10.1.1
 - participation exemption system, 10.1.1[a]
 - prevention of base erosion, 10.1.1[b]
- Treasury Department Technical Explanations, 10.4

TOPICAL INDEX

Article XI, 11.0

- Corporate Transparency Act, 11.1.2
- Tax Cuts and Jobs Act 2017, 11.1.1
- Explanation & Interpretation under U.S. Law, 11.3
- Treasury Department Technical Explanations, 11.4

Article XII, 12.0

- e-commerce taxation, 12.1, 12.4 *see also* **E-commerce Taxation**
- Tax Cuts and Jobs Act 2017, 12.1.1
- Treasury Department Technical Explanations, 12.5

Article XIII, 13.0

- Explanation & Interpretation under Canadian and U.S. Law, 13.2, 13.3
- Tax Cuts and Jobs Act 2017, 13.1
- Treasury Department Technical Explanations, 13.4

Article XIV, 14.0

- Explanation & Interpretation under Canadian and U.S. Law, 14.2, 14.3
- Treasury Department Technical Explanations, 14.4

Article XV, 15.0

- Explanation & Interpretation under Canadian and U.S. Law, 15.2, 15.3
- Treasury Department Technical Explanations, 15.4

Article XVI, 16.0

- Explanation & Interpretation under Canadian and U.S. Law, 16.2, 16.3
- Treasury Department Technical Explanations, 16.4

Article XVII, 17.0

- Explanation & Interpretation under Canadian and U.S. Law, 17.2, 17.3
- Treasury Department Technical Explanations, 17.4

Article XVIII, 18.0

- Explanation & Interpretation under Canadian and U.S. Law, 18.2, 18.3
- Revenue Procedure 2014-55 under U.S. Law, 18.6
- Treasury Department Technical Explanations, 18.4

Article XIX, 19.0

- Explanation & Interpretation under Canadian and U.S. Law, 19.2, 19.3
- Treasury Department Technical Explanations, 19.4

Article XX, 20.0

- Explanation & Interpretation under Canadian and U.S. Law, 20.2, 20.3
- Treasury Department Technical Explanations, 20.4

Article XXI, 21.0

- Explanation & Interpretation under Canadian and U.S. Law, 21.2, 21.3

TOPICAL INDEX

- Treasury Department Technical Explanations, 21.4

Article XXII, 22.0

- Explanation & Interpretation under Canadian and U.S. Law, 22.2, 22.3
- Treasury Department Technical Explanations, 22.4

Article XXIII, 23.0

- Explanation & Interpretation under Canadian and U.S. Law, 23.2, 23.3
- Treasury Department Technical Explanations, 23.4

Article XXIV, 24.0

- Explanation & Interpretation under Canadian and U.S. Law, 24.2, 24.3
- Tax Cuts and Jobs Act 2017, 24.1.1
- Treasury Department Technical Explanations, 24.4

Article XXV, 25.0

- Explanation & Interpretation under Canadian and U.S. Law, 25.2, 25.3
- recent cases, 25.3.2
- Treasury Department Technical Explanations, 25.4

Article XXVI, 26.0

- Explanation & Interpretation under U.S. Law, 26.3
- Mutual Agreement Procedure (MAP) under Canadian Law, 26.2
- Treasury Department Technical Explanations, 26.4

Article XXVIA, 26A

- Explanation & Interpretation under Canadian and U.S. Law, 26A.2, 26A.3

Article XXVII, 27.0

- Explanation & Interpretation under Canadian and U.S. Law, 27.2
- New IRS International Enforcement Guidance, 27.2.6
- Treasury Department Technical Explanations, 27.4
- Whistleblower Programs, 27.3.1, 27.3.2

Article XXVIII, 28.0

- Explanation & Interpretation under Canadian and U.S. Law, 28.2, 28.3
- Treasury Department Technical Explanations, 28.4

Article XXIX, 29.0

- explanation and interpretation, Canadian Law, 29.2.2
- application of domestic tax laws, 29.2.2[a]
- Treaty and General Agreement on Trade in Services (GATS), coordination, 29.2.2
- material changes, domestic law and policy, amendments to Treaty, 29.2.2[g]
- “saving clause”, 29.2.2[b]
- “saving clause” exceptions, 29.2.2[c]

TOPICAL INDEX

- • U.S. “S”-corporations shareholders, taxation of, 29.2.2[e]
- • U.S. social security taxes, 29.2.2[d]
- Explanation & Interpretation of the Treaty under U.S. Law, 29.3
- Treasury Department Technical Explanations, 29.4

Article XXIXA, 29A-0

- Corporate Transparency Act, 29A.1.2, 29A.3.1[f]
- Tax Cuts and Jobs Act 2017, 29A.1.1
- • treaty benefits, limitations, 29A.1.1[a]
- Treasury Department Technical Explanations, 29A.4

Article XXIXB, 29B.0

- Tax Cuts and Jobs Act 2017, 29B.1.1
- Explanation & Interpretation under Canadian and U.S. Law, 29B.2, 29B.3
- Treasury Department Technical Explanations, 29B.4

Article XXX, 30.0

- Explanation & Interpretation under Canadian and U.S. Law, 30.2, 30.3
- Treasury Department Technical Explanations, 30.4

Article XXXI, 31.0

- Explanation & Interpretation under Canadian and U.S. Law, 31.2, 31.3
- Treasury Department Technical Explanations, 31.4

Artistes & athletes, Canadian taxation of, 16.2.1[a]

- non-resident entertainers and athletes, 16.2.1
- • actors, 16.2.1[d]
- • artiste, defined, 16.2.2[a]
- • athletes, 16.2.1[b]
- • • “Duty Days”, 16.2.1[b]
- • endorsements, 16.2.1[b]
- • basis of taxation, 16.2.1[a]
- • entertainers
- • • defined, 16.2.1[b]
- • • taxation of, 16.2.1[c]
- • explanation of Treaty, 16.2.2
- • • exception, professional sports teams, 16.2.2[c]
- • • indirect earnings, 16.2.2[b]
- • • signing bonus, 16.2.2[d]
- • • source based taxation, 16.2.2[a]
- • • threshold, 16.2.2[a]
- • withholding obligations, 16.2.1[e]

Artistes & athletes, U.S. taxation of, 16.3.1[a]

- anti-avoidance rule, 16.3.1[b]

TOPICAL INDEX

- exceptions, 16.3.1[c]
- inducement payments, 16.3.1[d]

Asset-use test, 6.1.1[a], 7.3.1[c], 13.1.1[a]

Attribution of business profits, 7.2.2[b], 7.5.2[b]

Attribution of personal services income, 14.2.2[c]

Avoidance transaction, 29A.2.1[b]

B

BEAT, *see* **Base Erosion and Anti-Abuse Tax**

BEPS, 4.1, 5.1, 7.1.2, 11.2.2, 11.3.2[j]

- BEPS Action Plan, 4.1, 5.1, 7.1.2, 11.2.2, 11.3.2[j]
- prevention of, 9.1.1[a], 10.1.1[b], 11.1.1[a]
- • excise tax, domestic corporations to related foreign corporations, 9.1.1[a], 11.1.1[a]
- • exemption U.S. shareholders, 9.1.1[a], 11.1.1[a]
- • interest deduction, limitation, 9.1.1[a], 11.1.1[a]

Bank deposit interest, 11.3.1[e]

Base erosion and anti-abuse tax (BEAT)

- Tax Cuts and Jobs Act 2017, 7.1.1[a], 10.1.1[a], 12.1.1[d]

Base erosion and profit shifting, *see* **BEPS**

Base erosion test, 29A.3.2[a], 29A.5.2[f]

Beneficial ownership

- dividends, 10.2.2[b], 10.3.2[b]
- hybrid entities, 4.5.2[c], 4.5.2[e]
- interest, 11.2.2[b]
- limitation on benefits
- • access and safeguards, 29A.6.4
- • reporting requirements, 29A.6.3
- royalties and rent, 12.2.2[b]

Branch, permanent establishment, 5.2.2[c]

Branch profits tax, 10.2.1[i], 10.3.1[f]

- limitations on, 10.2.2[f], 29A.3.1[e]
- qualified resident, 29A.3.1[e]
- tax on interest, 11.3.1[g]

TOPICAL INDEX

Business, defined, 14.2.1[b], 29A.3.2[b]

Business activities test, 6.1.1[a], 7.3.1[c], 13.1.1[a]

Business profits

- attribution, 7.1
- BEPS, 7.1.2
- Corporate Transparency Act, 7.1.4, 7.3.1[e]
- e-commerce taxation, 7.1.3
- permanent establishment, 7.1
- recent cases under U.S. law, 7.1.5
- Tax Cuts and Jobs Act 2017, 7.1.1

Business profits of non-residents, Canadian interpretation of treaty, 7.2.2

- attribution of, methodology, 7.2.2[b]
- branch profits, 7.2.2[a]
- consistent computation, 7.2.2[d]
- deductions and expenses, 7.2.2[c]
- CRA position, 7.2.2[c]
- interest payable by financial institutions, 7.2.2[c]
- notional expenses, 7.2.2[c]
- defined, 7.2.2[a]
- exclusions, 7.2.2[d]
- generally accepted accounting principles (GAAP), 7.2.2[e]
- management functions, 7.2.2[d], 7.2.2[i]
- permanent establishment, 7.2.2[a], 7.2.2[g]
- purchasing functions, 7.2.2[d]
- related persons, 7.2.2[b]

Business profits of non-residents, Canadian law, 7.2.1

- business income, 7.2.1[a]
- employment income, 7.2.1[a]
- passive income, 7.2.1[a]
- Part I tax, 7.2.1[a]
- Part XIII tax, 7.2.1[a]
- reporting requirements, 7.2.1[d]
- taxable Canadian property disposition, 7.2.1[a]

Business profits of non-residents, Fifth Protocol commentary, 7.5

- attribution, 7.5.2[b]
- entry into force, 7.5.1
- permanent establishment, timing of, 7.5.2[a]

Business profits of non-residents, U.S. interpretation of treaty, 7.3.2

- attribution of profits, 7.3.2[a]

TOPICAL INDEX

- consistent computation, 7.3.2[d]
- deductions, 7.3.2[b]
- ECI, 7.3.2[a]
- management functions, 7.3.2[c]
- OECD commentary, 7.3.2[f]
- OECD transfer pricing guidelines, 7.3.2[a]
- permanent establishment, 7.3.2[a]
- purchasing functions, 7.3.2[c]

Business profits of non-residents, U.S. law, 7.3.1

- branch profits, 7.3.1[a]
- Corporate Transparency Act, 7.3.1[e]
- ECI, 7.3.1[a], 7.3.1[c]
- FDAP, 7.3.1[a]
- foreign-source income, 7.3.1[c]
- Form 1120F, 7.3.1[d]
- reporting requirements, 7.3.1[d]
- sourcing rules, 7.3.1[b]

C

CFC, *see* Controlled foreign corporations

Canada

- defined, Article III, 5.2.2[e]

***Canada Trustco case*, 29A.2.1[b]**

Canadian tax-exempt entities and charities, 21.2.1

- contributions, Canadian residents to U.S. charities, 21.2.2[f]
- contributions, U.S. residents to Canadian charities, 21.2.2[f]
- Crown and municipal corporations, 21.2.1[a]
- depositary trust company [DTC], 21.2.1[d]
- dividends and interest derived by pension plans, 21.2.2[b]
- dividends and interest derived by tax-exempt organizations, 21.2.2[c]
- donations, 21.2.1[c]
- excise tax exemption, 21.2.2[e]
- gifted property, 21.2.1[c]
- income earned, 21.2.1[b]
- not-for-profit organizations, 21.2.1[a]
- other entities, 21.2.1[a]
- registered charities, 21.2.1[a]
- registered pension plans [RPP], 21.2.1[a]

TOPICAL INDEX

- trade or business exception, 21.2.2[d]
- treaty explanation, 21.2.2[a]

Capital, taxation of, Canadian law, 23.2.1

Capital gains, *see* Gains (capital)

Capital taxes, 24.2.2[h]

Carrying on business in Canada by non-residents, Canadian taxation, 5.2.1[b], 7.2.1[b]

- agent, indirectly through, 5.2.1[e], [f]
- ancillary activities, 5.2.1[b]
- business, defined, 5.2.1[b]
- CRA position, 5.2.1[b]
- • place of contract, 5.2.1[b]
- • reasonable man, 5.2.1[b]
- common law test, 5.2.1[b]
- defined, 14.2.1[c]
- dispositions of taxable Canadian property, 5.2.1[d]
- electronic commerce, 5.2.1[h]
- filing requirements, 5.2.1[i]
- investment and other financial activities, 5.2.1[c]
- location of business activities, 5.2.1[b]
- partnerships, 5.2.1[g]
- rents and royalties, 12.2.1[f]
- section 253 definition, 5.2.1[b]

Carrying on business in U.S. by foreign persons, U.S. taxation, 5.3.1

- effectively connected income (ECI), 5.3.1[a]
- • types, 5.3.1[c]
- fixed or determinable annual or periodic income (FDAP), 5.3.1[a]
- foreign persons, taxation of, 5.3.1[a]
- U.S. trade or business (USTB), 5.3.1[a], [b]
- • administrative activities, 5.3.1[b]
- • agent activities, 5.3.1[b]
- • purchase/sale of goods, 5.3.1[b]
- • real estate investment activities, 5.3.1[b]
- • treasury and IRS guidelines, 5.3.1[b]
- USTB and ECI analysis, 5.3.1[a]

Centre of vital interests, 4.2.2[b], 4.3.2[b]

Charitable bequests, 29B.3.2[a]

Charitable organizations, 21.1.1

TOPICAL INDEX

Citizenship test, 4.2.2[b]

Competent authority agreement, 13.2.2[h]

- Canada-U.S. competent authority mutual agreement, 7.5.2[b]

Competent authority relief, 29A.3.2[d], 29A.5.2[i]

Conduit, 10.2.2[b], 10.3.1[g]

Conduit financing, 11.3.1[h], 29A.3.1[b]

Construction/building/installation, permanent establishment, 5.2.2[d]

Contingent debt interest, *see* **Participating debt interest**

Contracting State, 23.2.2

Control, *de jure*, 7.2.2[b]

Controlled foreign corporations, 24.3.1[a]

Copyright royalties, 12.2.2[c]

Corporate continuations, 4.5.1[a]

Corporate reorganizations, 10.2.1[g], 13.2.2[h]

- competent authority agreement, 13.2.2[h]

Corporate Transparency Act

- U.S. ownership reporting rules
- • business profits, 7.1.4, 7.3.1[e]
- • dividends, 10.1.2
- • interest, 11.1.2
- • limitation on benefits, 29A.1.2, 29A.3.1[f]

Corporations, residence, 4.2.1[d]

D

DEA, *see* **Dividend equivalent amount**

Death of taxpayer, 29B.1

Death of taxpayer, Fifth Protocol commentary, 29B.5

- entry into force, 29B.5.1
- RRSPs, 29B.5.2[c]
- spousal rollovers, 29B.5.2[b]
- stock and options, 29B.5.2[c]
- transfer of property to exempt organization, 29B.5.2[a]

TOPICAL INDEX

Death of taxpayer, U.S. interpretation of treaty, 29B.3.2

- charitable bequests, 29B.3.2[a]
- estate tax credit for Canadian gains, 29B.3.2[d]
- marital credit, 29B.3.2[c]
- *pro rata* unified credit, 29B.3.2[b]
- small estates relief, 29B.3.2[e]

Death of taxpayer, U.S. law, 29B.3

- estate tax, 29B.3.1[a], 29B.3.1[b], 29B.3.1[c]
- foreign death taxes, 29B.3.2[c], 29B.3.2[d]
- gift tax, 29B.3.1[a], 29B.3.1[d], 29B.3.1[e]
- generation-skipping transfer tax, 29B.3.1[a], 29B.3.1[f]
- transfer tax rules, 29B.3.1[a]
- transfers to alien spouse, 29B.3.1[g]
- qualified domestic trust (QDOT), 29B.3.1[g]
- unified credit, 29B.3.1[a]

Decedent, *see* Death of taxpayer

Deduction for Foreign-Derived Intangible Income (FDII)

- Tax Cuts and Jobs Act 2017, 7.1.1[a], 10.1.1[a], 12.1.1[c]

Deductions from business profits, 7.2.2[c], 7.3.2[b]

Deemed disposition rules, coordination of, 13.2.2[g], 13.3.2[i], 13.5.2[d]

- election, Fifth Protocol, 13.5.2[c]

Deferral privilege, 24.3.1[a]

- anti-deferral regimes, 24.3.1[a]

Deferred compensation, 14.3.1[f], 15.3.1[f]

Departure permit, 14.3.1[c]

Derivative benefits exception, 29A.3.2[c]

Diplomatic agents and consular officials, U.S. law, 28.3

- Treaty, 28.3.1[a]

Disposition, *see* Gains (capital)

Disposition of taxable Canadian property, 5.2.1[d]

Disqualified interest, 11.3.1[f]

Dividend equivalent amount, 10.3.1[f]

Dividends, 10.1

- characterization, 10.1
- deemed, 10.2.1[g], 10.2.1[h]

TOPICAL INDEX

- U.S. ownership reporting rules. 10.1.2
- withholding tax, 10.1

Dividends, Canadian interpretation of treaty, 10.2.2

- beneficial ownership, 10.2.2[b]
- branch profits tax limitations, 10.2.2[f]
- deemed, 10.2.2[b]
- defined, 10.2.2[c]
- effectively connected holdings, 10.2.2[d]
- general anti-avoidance rule (GAAR), 10.2.2[b]
- non-resident-owned investment corporation (NRO), 10.2.2[g]
- residence-based jurisdiction to tax, 10.2.2[a]
- limitation on scope, 10.2.2[e]
- sourced-based jurisdiction to tax, 10.2.2[b]
- substantial ownership test, 10.2.2[b]
- withholding tax, 10.2.2[b]

Dividends, Fifth Protocol commentary, 10.5

- defined for Art. X, 10.5.2[b]
- entry into force, 10.5.1
- fiscally transparent holding entities, 10.5.2[a]
- foreign affiliate, 24.5.2
- foreign tax credit, 24.5.2
- paid by REITs, 10.5.2[c]

Dividends, paid to Canadian residents from U.S. source, Canadian law, 10.2.1[j]

- foreign accrual property income (FAPI), 10.2.1[j]
- foreign affiliates, 10.2.1[j]
- foreign tax credit, 10.2.1[j]

Dividends, paid to Canadian residents from U.S. source, U.S. law, 10.3.1

- branch profits tax, 10.3.1[f]
- classification of corporate instruments, 10.3.1[b]
- classification of entities, 10.3.1[a]
- conduit, 10.3.1[g]
- defined, 10.3.1[c]
- dividend equivalent amount (DEA), 10.3.1[f]
- effectively connected earnings and profits (ECEP), 10.3.1[f]
- hybrid entities, 5.2.2[b], 10.3.1[g]
- net equity, 10.3.1[g]
- sourcing rules, 10.3.1[d]
- withholding tax, 10.3.1[e]

TOPICAL INDEX

Dividends, paid to U.S. residents, taxation of, Canadian law, 10.2.1

- branch profits tax, 10.2.1[i]
- deemed through reorganizations, 10.2.1[g]
- entity classification, 10.2.1[c]
- • corporations, 10.2.1[c]
- • partnerships, 10.2.1[c]
- • trusts, 10.2.1[c]
- flow-through entities, 10.2.1[e]
- • specified investment flow-through entities [SIFT], 10.2.1[e]
- meaning of, 10.2.1[b]
- reorganizations, 10.2.1[g]
- shareholder debt, 10.2.1[h]
- unlimited liability companies, 10.2.1[d]
- withholding, 10.2.1[f]
- • Form NR4, 10.2.1[f]

Dividends, U.S. interpretation of treaty, 10.3.2

- accumulated earnings tax, 10.3.2[h]
- beneficial ownership, 10.3.2[b]
- branch profits tax, 10.3.2[f]
- defined, 10.3.2[c]
- personal holding company tax, 10.3.2[h]
- portfolio (and non) stock, 10.3.2[b]
- real estate investment trusts (REIT), 10.3.2[g]
- regulated investment companies (RIC), 10.3.2[g]
- residence-based jurisdiction to tax, 10.3.2[a], 10.3.2[e]
- sourced-based jurisdiction to tax, 10.3.2[b]

Double taxation, 24.1

- coordination rules, 13.3.2[g]
- gains, deemed disposition, 13.2.2[g]
- residence, 4.1

Double taxation, Canadian interpretation of treaty, 24.2.2

- capital taxes, 24.2.2[h]
- elimination of, 24.2.2[a], 24.2.2[b]
- exempt income, 24.2.2[j]
- non-Canadian foreign taxes, 24.2.2[I]
- override of sourcing rules, 24.2.2[c]
- “saving clause”, 24.2.2[c], 24.2.2[d]
- U.S. citizen resident in Canada, 24.2.2[d]
- • special sourcing rules, 24.2.2[f]
- • U.S. sourced dividends, interest and royalties, 24.2.2[e]

TOPICAL INDEX

Double taxation, Canadian law, 24.2.1

- deduction of foreign taxes, 24.2.1[a]
- • method, 24.2.1[f]
- foreign affiliate property income (FAPI) tax relief, 24.2.1[h]
- foreign affiliate dividends, 24.2.1[h]
- • from exempt surplus, 24.2.1[h]
- • from taxable surplus, 24.2.1[h]
- foreign tax credit, 24.2.1[a]
- • business and non-business taxes, 24.2.1[d]
- • compliance, 24.2.1[i]
- • loss, 24.2.1[g]
- • method, 24.2.1[c]
- • source rules, 24.2.1[e]
- foreign taxes, defined, 24.2.1[b]

Double taxation, Fifth Protocol commentary, 24.5

- entry into force, 24.5.1
- exempt surplus rules, 24.5.2
- foreign affiliate, dividends from, 24.5.2
- foreign tax credit or dividends, 24.5.2

Double taxation, U.S. interpretation of treaty, 24.3.2

- capital taxes, 24.3.2[d]
- exempt income, 24.3.2[f]
- foreign tax credit regime, 24.3.2[a]
- non-Canadian foreign taxes, 24.3.2[e]
- override of sourcing rules, 24.3.2[b]
- U.S. citizen resident in Canada, 24.3.2[g]
- • special re-sourcing rules, 24.3.2[i]
- • U.S. sourced dividends, interest and royalties, 24.3.2[h]

Double taxation, U.S. law, 24.3.1

- deferral privilege, 24.3.1[a]
- foreign tax credit, 24.3.1[a], 24.3.1[b]
- • direct, 24.3.1[c]
- • expense allocation, 24.3.1[e]
- • indirect, 24.3.1[d]
- • indirect credit rules, dividends, 24.3.1[a], 24.3.1[d]
- • limitation, section 904, 24.3.1[e]
- • limitation categories, section 904(d), 24.3.1[e]
- • look-through to U.S. source, section 904(h), 24.3.1[e]
- • overall foreign losses, section 904(f), 24.3.1[e]
- foreign tax deduction, 24.3.1[b]

TOPICAL INDEX

Dual incorporation, 4.5.1[a]

Dual residents

- corporations, 4.2.2[c]
- • tie-breaker rule, 4.5.2[a]
- individuals, 4.2.2[b]

E

E-commerce, 5.2.1[h], 5.3.2[g]

E-Commerce Taxation

- Article VII, business profits, 7.1.3
- Article XII, royalties, 12.1
- digital tax, Canada, 7.6.7, 12.4.7
- • GST/HST new digital rules, 7.6.7, 12.4.7
- • key features, 7.6.7, 12.4.7
- digital tax and state considerations, 7.6.5, 12.4.5
- • new OECD proposals, Pillar One, 7.6.6[a], 12.4.6[a]
- OECD commentary
- • business profits, 7.6.2, 12.4.2
- • royalties, 7.6.1, 12.4.1
- U.S. characterization, 7.6.3, 12.4.3
- • computer software classification regulations, 7.6.3[b], 12.4.3[b]
- • U.S. approach, 7.6.3[a], 12.4.3[a]
- U.S. classification, cloud transactions, digital content, 7.6.4, 12.4.4
- • cloud transactions, background, 7.6.4[a], 12.4.4[a]
- • cloud transactions, classification, 7.6.4[e], 12.4.4[e]
- • • examples, 7.6.4[e], 12.4.4[e]
- • cloud transactions, classification considerations , 7.6.4[b], 12.4.4[b]
- • “cloud transaction”, defined, 7.6.4[d], 12.4.4[d]
- • proposed regulations §1.861-18, 7.6.4[f], 12.4.4[f]
- • • examples, 7.6.4[f], 12.4.4[f]
- • proposed regulations §1.861-19, 7.6.4[c], 12.4.4[c]

ECEP, *see* **Effectively connected earnings and profits**

ECI, *see* **Effectively connected income**

Earnings stripping, 11.1.1[a], 11.3.1[f]

- debt-to-equity ratio, 11.1.1[a]

Economic substance, 29A.3.1[c]

TOPICAL INDEX

Effectively connected income, 5.3.1[a], 6.1.1, 7.3.1[c], 13.1.1[a], 15.3.1[a]

- asset-use test, 6.1.1[a], 7.3.1[c], 13.1.1[a]
- business-activities test, 6.1.1[a], 7.3.1[c], 13.1.1[a]
- types, 5.3.1[c]

Effectively connected earnings and profits, 10.3.1[f]

Effectively connected holdings, 10.2.2[d]

Effectively connected interest, 11.3.1[e]

Emigration from Canada, 13.2.1[f]

Employee, defined, 15.2.1[b]

Employee vs. independent contractor, 14.3.1[d], 15.3.1[b]

Employment, defined, 14.2.1[b], 15.2.1[b]

Employment income, *see* **Income from Employment**

Enterprise test, 5.2.2[j], 5.3.2[f]

Estate tax, 29B.3.1[a], 29B.3.1[b], 29.3.1[c]

- credit, 29B.3.2[d]
- unified credit, 29B.3.1[a]

Exchange of information, explanation and interpretation, Canadian Law, U.S. Law, 27.2

- discovery and examinations, international, 27.2.3
- persons and taxes covered, 27.2.1[a]
- secrecy, 27.2.1[b]
- IRS enforcement guidance, 27.2.6
- methods of, 27.2.5
- model agreement, 27.2.4
- requests for information, treatment of, 27.2.2
- whistleblower programs, 27.3
- CRA Offshore Tax Informant Program (OTIP), 27.3.1
- IRS Whistleblower Program, 27.3.2

Exempt income, 24.2.2[j]

Exempt list, 5.3.2[c]

Exempt organizations, 21, 29A.5.2[g], 29B.5.2[a]

- charitable and non-profit organizations, 21.1.1
- pension plans, 21.1.2
- taxation of, U.S. law, 21.3.1
- organizations and pension trusts, 21.3.1[a]

TOPICAL INDEX

- tax exempt governments, 21.3.1[b]
- treaty, 21.1.3

Exempt organizations, explanation and interpretation, U.S. law, 21.1.3

- charitable contribution deduction, Canadian charity by U.S. resident, 21.3.2[g]
- charitable contribution deduction, U.S. charity by Canadian resident, 21.3.2[f]
- excise taxes, exemption, 21.3.2[f]
- source state taxation, 21.3.2[b]
- U.S.-sourced interest and dividends
- denial of relief, 21.3.2[e]
- organizations earning income for pensions/charities, 21.3.2[d]
- pensions, 21.3.2[c]

Expatriation, 29B.3.1[h]

Expenses deductible from business profits, 7.2.2[c], 7.3.2[b]

- interest payable by financial institutions, 7.2.2[c]
- notional, 7.2.2[c]

F

FAPI, *see* Foreign affiliate property income

FATCA, *see* Foreign Account Tax Compliance Act

FATCA IGA, *see* Intergovernmental Agreement for the Enhanced Exchange of Tax Information under the Canada-U.S. Tax Convention

FDAP, *see* Fixed or determinable annual or periodic income

FDII, *see* Deduction for Foreign-Derived Intangible Income

Fifth protocol, *see* Protocol 2007

Financial institutions, interest payable, 7.2.2[c]

Fiscal domicile, 4.1

Fiscally transparent entities, 4.3.1[b], 4.5.2[b]

- defined, 4.5.2[b]
- dividends paid through, 10.5.2[a]
- hybrid entity income, 4.5.2[c]
- same treatment test, 4.5.2[b]

Fixed base of individual, 14.2.2[b]

TOPICAL INDEX

Fixed or determinable annual or periodic income, 5.3.1[a], 11.3.1[d], 29A.1.1[a]

Flow-through entities, 10.2.1[e]

Foreign Account Tax Compliance Act (FATCA), 27.5.1

- inception, 27.5.1[a]
- legal regime, how to approach, 27.5.1[b]
- purpose, 27.5.1[a]

Foreign accrual property income, 10.2.1[j], 24.2.1[h]

Foreign affiliates

- dividends received from, 10.2.1[j], 24.2.1[h]
- foreign accrual property income (FAPI), 10.2.1[j]

Foreign Financial Institutions (FFI)

- defined, 27.5.1[a]
- withholding tax, 27.5.1[a]

Foreign losses, overall, 24.3.1[e]

Foreign-source income, 7.3.1[c]

Foreign tax credit, 10.2.1[j], 24.2.1[c], *see also* **Double taxation** [Canadian and U.S.]

Foreign taxes, 24.2.1[a], 24.2.1[b], *see also* **Double taxation** [Canadian and U.S.]

- deduction, section 164, 24.3.1[b]

Form 1040NR, 14.3.1[c], 15.3.1[d]

Form 1120F, 7.3.1[d]

Form NR4, 10.2.1[f], 11.2.1[h]

Franchise agreements, 12.2.2[c], 12.6.2[b]

Fully exempt interest, 11.2.1[c]

G

GAAP, *see* **Generally accepted accounting principles**

GAAR, *see* **General anti-avoidance rule**

GATS, *see* **General Agreement on Trade in Services**

GILTI, *see* **Global Intangible Low-Taxed Income**

TOPICAL INDEX

Gains (capital), 13.1

- proposed regulations, 13.1.2
- Tax Cuts and Jobs Act 2017, 13.1.1

Gains, Canadian interpretation of treaty, 13.2.2

- alienation, 13.2.2[a]
- corporate reorganizations, 13.2.2[h]
- competent authority agreement, 13.2.2[h]
- deemed disposition rules, coordination of, 13.2.2[g]
- former Canadian residents, 13.2.2[e]
- permanent establishment, 13.2.2[b]
- personal property, defined, 13.2.2[b]
- personal residence exemption, 13.2.2[f]
- principally, defined, 13.2.2[c]
- look-through rule, 13.2.2[c]
- real property, defined, 13.2.2[c]
- residual clause, exempt gains, 13.2.2[d]
- shares, valuation, 13.2.2[c]
- transitional rule, 13.2.2[i]

Gains, Canadian taxation of gains of non-residents, 13.2.1

- disposition, meaning, 13.2.1[b]
- emigration from Canada, 13.2.1[f]
- deemed disposition, 13.2.1[f]
- immigration to Canada, 13.2.1[f]
- mutual fund trust payments, 13.2.1[g]
- re-characterization rules, 13.2.1[c]
- reporting, 13.2.1[e]
- section 116 certificate, 13.2.1[e]
- substitute properties, 13.2.1[d]
- tax deferred rollovers, 13.2.1[b]
- taxable Canadian property, 13.2.1[a], 13.2.1[d]
- interests and options in, 13.2.1[d]
- transfers, 13.2.1[b]
- withholding, 13.2.1[e]
- excluded property, 13.2.1[e]
- section 116 certificate, 13.2.1[e]

Gains, Fifth Protocol commentary, 13.5

- deemed disposition election, 13.5.2[c]
- dispositions by individuals, 13.5.2[b]

TOPICAL INDEX

- entry into force, 13.5.1
- permanent establishment, 13.5.2[a]

Gains, U.S. interpretation of treaty, 13.3.2

- alienation, 13.3.2[a]
- coordination rules, 13.3.2[g]
- estate tax credit, 29B.3.2[d]
- former residents, 13.3.2[e]
- personal property gains, 13.3.2[b]
- permanent establishment, 13.3.2[b]
- principal residence in Canada, 13.3.2[e]
- real property, defined, 13.3.2[c]
- real property gains, 13.3.2[a]
- residence-based taxation of other gains, 13.3.2[d]
- transition relief, 13.3.2[h]

Gains, U.S. taxation of, 13.3.1

- non-resident aliens and foreign corporations, 13.3.1[a]
- personal property sales, 13.3.1[c]
- source of gains, 13.3.1[c]
- U.S. real property interests, 13.3.1[b]

General Agreement on Trade in Services (GATS)

- coordination with, 29.3.1[f]

General anti-avoidance rule (GAAR), 10.2.2[b], 11.2.1[i], 29A.2.1

- *Canada Trustco*, 29A.2.1[b]
- series of transactions, 29A.2.1[b]
- treaty, 29A.2.1[b]
- treaty shopping, 29A.2.1[c]
- withholding, 29A.2.1[d]

Generally accepted accounting principles, 7.2.2[e]

Generation-skipping transfer tax, 29B.3.1[a], 29B.3.1[f]

Gift tax, 29B.3.1[a], 29B.3.1[d], 29B.3.1[e]

- unified credit, 29B.3.1[a]

Global Intangible Low-Taxed Income (GILTI)

- Tax Cuts and Jobs Act 2017, 7.1.1[a], 10.1.1[a], 12.1.1[b]

Grantor trust, 4.3.1[b], 4.3.1[d], 18.3.3[c]

Green card holder, 4.3.1[a], 29B.3.1[h]

- deemed disposition, 13.2.1[f]

Guarantee fees, 11.5.2[d]

TOPICAL INDEX

H

Habitual abode, 4.2.2[b], 4.3.2[b]

Hybrid entities, 4.5.1[b], 4.5.1[c], 10.3.1[g]

- anti-avoidance rule, 4.5.2[d]
- beneficial ownership test, 4.5.2[c]
- fiscally transparent, 4.5.2[b]
- permanent establishment, 4.5.2[c]
- positive and negative rules, 4.5.2[b]
- saving clause, 4.5.2[f]

I

IGA, *see* **Intergovernmental Agreement**

Immigration to Canada, 13.2.1[f]

“In connection with”, 29A.3.2[b]

“Incidental to”, 29A.3.2[b]

Income earned, taxation of, Canadian law, 19.2

- Canadian government employee abroad, 19.2.2
- foreign diplomat, consular officer, 28.2.1
- foreign government employee in Canada, 19.2.1

Income from employment, 15.1

Income from employment, Canadian interpretation of treaty, 15.2.2

- allocation of income, 15.2.2[a]
- international transport employees, 15.2.2[c]
- source-based taxation, 15.2.2[a]
- • exceptions, 15.2.2[b]

Income from employment, Canadian law, 15.2.1

- employee, defined, 15.2.1[b]
- employment, defined, 15.2.1[b]
- employment income
 - • allocation of, 15.3.1[d]
 - • stock option benefits, 15.3.1[d]
 - • • taxation of, 15.3.1[d]
 - • • withholding, 15.3.1[e]
 - • timing of, 15.3.1[c]

TOPICAL INDEX

- non-resident, 15.2.1[a]
- office, defined, 15.2.1[b]
- remuneration, contract, 15.2.1[a]
- qualifying non-resident employee, defined, 15.2.1[e]
- qualifying non-resident employer, defined, 15.2.1[e]
- social security agreements, 15.2.1[f]
- tax basis, 15.2.1[a]
- withholding, 15.2.1[e]

Income from employment, U.S. interpretation of treaty, 15.3.2

Income from employment, U.S. law, 15.3.1

- deferred compensation, 15.3.1[f]
- effectively connected income, 15.3.1[a]
- exclusion when living abroad, 15.3.1[e]
- independent contractor vs. employee, 15.3.1[b]
- source rules, 15.3.1[c]
- U.S. return, Form 1040NR, 15.3.1[d]
- withholding, 15.3.1[d]

***Income Tax Conventions Interpretation Act*, Appendix**

Independent contractor vs. employee, 14.3.1[d], 15.3.1[b]

Independent personal services, 14.1

Independent personal services, Canadian interpretation of treaty, 14.2.2

- fixed base of individual, 14.2.2[b]
- income attributable to, 14.2.2[c]

Independent personal services, Canadian law, 14.2.1

- allocation of income, 14.2.1[d]
- business, defined, 14.2.1[b]
- carrying on a business, 14.2.1[c]
- non-resident service providers, basis to tax, 14.2.1[a]
- withholding taxes, 14.2.1[e]

Independent personal services, U.S. interpretation of treaty, 14.3.2

Independent personal services, U.S. law, 14.3.1

- deferred compensation, 14.3.1[f]
- exclusion when living abroad, 14.3.1[e]
- foreign employers and crew, 14.3.1[a]
- independent contractor vs. employee, 14.3.1[d]
- reporting requirements, 14.3.1[c]
- residence of individual, 14.3.1[a]
- sailing or departure permits, 14.3.1[c]

TOPICAL INDEX

- source rules, 14.3.1[b]
- U.S. domestic withholding tax rules, 17.3.1
- • Treaty, 17.3.2
- U.S. return, Form 1040NR, 14.3.1[c]
- withholding, 14.3.1[c]

Indirect foreign tax credit, 24.3.1[d]

Individuals

- Canadian residence, 4.2.1[c]

Interest, 11.1

- U.S. ownership reporting rules. 11.1.2

Interest, Canadian interpretation of treaty, 11.2.2

- beneficial ownership, 11.2.2[b]
- commercial credit, 11.2.2[c]
- defined, 11.2.2[d]
- excess, 11.2.2[g]
- exemptions, 11.2.2[c]
- governmental debt, 11.2.2[c]
- • instrumentality, 11.2.2[c]
- permanent establishment, 11.2.2[e]
- paid defined, 11.2.2[b]
- residence-based jurisdiction to tax, 11.2.2[a]
- source-based jurisdiction to tax, 11.2.2[b], 11.2.2[f]
- triangular payments, 11.2.2[h]
- withholding, 11.2.2[b]

Interest, Fifth Protocol commentary, 11.5

- contingent, 11.5.2[c]
- entry into force, 11.5.1
- participating debt interest, 11.5.2[c]
- REMICs, 11.5.2[c]
- zero rate of withholding, 11.5.2[a]

Interest, paid to Canadian resident, taxation of, U.S. law, 11.2.1

- branch level tax on, 11.3.1[g]
- conduit financing, 11.3.1[h]
- debt vs. equity classification, 11.3.1[b]
- defined, 11.3.1[a]
- disqualified interest, 11.3.1[f]
- earnings stripping, 11.3.1[f]
- effectively connected, 11.3.1[e]
- excess, 11.3.1[g]

TOPICAL INDEX

- rate of tax, 11.3.1[d]
- related party, 11.3.1[i]
- sourcing rules, 11.3.1[c]
- withholding, 11.3.1[e]
- • bank deposit, 11.3.1[e]
- • portfolio, 11.3.1[e]

Interest, paid to non-resident, taxation of, Canadian law, 11.2.1

- deemed, 11.2.1[e]
- fully exempt interest, 11.2.1[c]
- legal meaning of, 11.2.1[e]
- paid to a non-resident, 11.2.1[a]
- participating debt interest, 11.2.1[b]
- received from U.S. resident, 11.2.1[j]
- sourcing rules, 11.2.1[g]
- withholding, 11.2.1[d], 11.2.1[h]

Interest, U.S. interpretation of treaty, 11.3.2

- credit sales or services, 11.3.2[d]
- defined, 11.3.2[d]
- excess, 11.3.2[g]
- government obligations, 11.3.2[c]
- permanent establishment, 11.3.2[e]
- real estate mortgage investment conduit (REMIC), 11.3.2[i]
- residence-based jurisdiction to tax, 11.3.2[a]
- source-based jurisdiction to tax, 11.3.2[b]
- source rules, 11.3.2[f]
- triangular payments, 11.3.2[h]

Intergovernmental Agreement (IGA), Canada-U.S., 27.5.1[b]

- information exchange, 27.5.1[b]
- legal enforcement measures, 27.5.1[b]
- provisions, 27.5.1[c]
- RRSPs, 27.5.1[b]

Intergovernmental Agreement for the Enhanced Exchange of Tax Information under the Canada-U.S. Tax Convention (FATCA IGA), 27.5

- definitions, 27.5
- due diligence obligations, 27.5
- new entity accounts, 27.5
- new individual accounts, 27.5
- non-reporting Canadian financial institutions and products, 27.5
- preexisting entity accounts, 27.5
- preexisting individual accounts, 27.5

TOPICAL INDEX

- special rules, 27.5

International tax evasion

- U.S. response to, 27.5.1[a]

International transport employees, 15.5.5[c]

L

LLC, *see* Limited liability company

LOB, *see* Limitation on benefits

Limitation on benefits, 29A.1

- beneficial ownership information, final rules
- • access and safeguards, 29A.6.4
- • reporting requirements, 29A.6.3
- Corporate Transparency Act, 29A.1.2, 29A.3.1[f]
- guidelines, 29A.6.1
- recent cases, 29A.1.3
- treaty shopping, 29A.2.1[c]

Limitation on benefits, Canadian interpretation of treaty, 29A.2.2

- active trade or business exception, 29A.2.2[c]
- anti-abuse provision, 29A.2.2[f]
- • anti-treaty shopping rule, 29A.2.2[f]
- competent authority relief, 29A.2.2[e]
- derivative benefits exception, 29A.2.2[d]
- qualifying person, 29A.2.2[b]
- • exempt organizations, 29A.2.2[b]
- • ownership/base erosion test, 29A.2.2[b]
- • pensions/employee benefit plan, 29A.2.2[b]
- treaty relief entitlement, 29A.2.2[a]

Limitation on benefits, Fifth Protocol commentary, 29A.5

- active trade or business test, 29A.5.2[h]
- base erosion test, 29A.5.2[f]
- competent authority presentation, 29A.5.2[i]
- disproportionate classes of shares, 29A.5.2[e]
- entry into force, 29A.5.1
- extension of provisions to Canada, 29A.5.2[a]
- look-through principles, 29A.5.2[b]
- ownership/base erosion test, 29A.5.2[b]
- principal class of shares, 29A.5.2[d]

TOPICAL INDEX

- publicly traded entities, 29A.5.2[c]
- qualifying persons, 29A.5.2[b], 29A.5.2[c], 29A.5.2[g]
- substantiality test, 29A.5.2[h]

Limitation on benefits, U.S. interpretation of treaty, 29A.3.2

- active conduct, 29A.3.2[b]
- active trade or business, 29A.3.2[b]
- • “incidental to”, 29A.3.2[b]
- • “in connection with”, 29A.3.2[b]
- • substantially requirement, 29A.3.2[b]
- anti-abuse provisions, 29A.3.2[e]
- base erosion tests, 29A.3.2[a]
- competent authority relief, 29A.3.2[d]
- derivative benefits exception, 29A.3.2[c]
- • requirements, 29A.3.2[c]
- nexus, 29A.3.2[b]
- qualifying person, 29A.3.2[a]
- • characteristics, “look-through” principles, 29A.3.2[a]
- • natural person, 29A.3.2[a]
- • other, 29A.3.2[a]
- • political subdivisions and agencies, 29A.3.2[a]
- • principal class of shares, 29A.3.2[a]
- • publicly-traded subsidiary test, 29A.3.2[a]
- • publicly-traded test, 29A.3.2[a]
- • shareholder and base erosion tests, 29A.3.2[a]
- resident, 29A.3.2[a]

Limitation on benefits, U.S. law, 29A.3.1

- *Aiken Industries, Inc.* case, 29A.3.1[b]
- branch profits tax, qualified resident, 29A.3.1[e]
- conduit financing, 29A.3.1[b]
- Corporate Transparency Act, 29A.3.1[f]
- economic substance, 29A.3.1[c]
- • codification, 29A.3.1[c]
- section 894(c) hybrid payments, 29A.3.1[d]
- sham transaction doctrine, 29A.3.1[c]
- • treaty shopping, 29A.3.1[b]

Limited liability company (LLC), 4.2.2[a], 4.3.1[b], 5.2.2.[b], 13.2.2[h]

Look-through rules, 13.2.2[c], 24.3.1[e], 29A.5.2[b]

TOPICAL INDEX

M

Management and control, by trustee, 4.2.1[f], 22.2.1[a], 29B.2.1[b]

Management fees, 7.2.1[c], 7.2.2[i]

Marital credit, 29B.3.2[c]

Mind, management and control rules, 4.2.1[d]

Mixed contracts, 12.2.2[c]

Multilateral Instrument (MLI)

- tax treaty measures, 5.1.1

Mutual agreement procedure (MAP) under Canadian Law, 26.2

- administration, 26.2.1[c]
- background and structure, 26.2.1[b]
- caseload, 26.2.1[c]
- cases subject to resolution, 26.2.1[d]
- defined, 26.2.1[a]
- explanation and interpretation, 26.2.2
- initiating request, 26.2.2[a]
- MOU, 26.2.1[b]
- mandatory arbitration provisions, 26.2.1[c]
- negotiation timeline, 26.2.1[a]
- partial/no resolution, examples, 26.2.1[a]
- CRA monitoring, 26.2.1[a]

Mutual agreement procedure (MAP) under U.S. Law, 26.3.1

- arbitration procedure
 - Part I, 26.3.1[g]
 - Part II, 26.3.1[h]
- competent authority procedure
 - direct communications, 26.3.1[f]
 - framework, 26.3.1[c], [d]
 - initiation, 26.3.1[b]
 - limited collection assistance, 26.3.1[e]
 - preliminary considerations, 26.3.1[a]
 - relationship to other articles, 26.3.1[i]

Mutual fund trust payments, 13.2.1[g]

TOPICAL INDEX

N

NR4, *see* **Form NR4**

NRA, *see* **Nonresident alien individual**

NRO, *see* **Non-resident-owned investment corporation**

Natural person, 29A.3.2[a]

Natural resource drilling rigs/ships, permanent establishment, 5.2.2[e]

- Canada defined, Article III, 5.2.2[e]

Net equity, 10.3.1[g]

Nexus, 5.3.2[a], 29A.3.2[a]

Nominee, 10.2.2[b]

Non-arm's length

- payments, 11.2.1[i], 12.2.1[k], 12.3.1[g]
- recent cases, 9.2.1[e]
- related persons, 11.2.1[i]
- special relations, 11.2.2[g]

Non-discrimination

- defined, 25.1
- effect of Fifth Protocol, 25.1.2
- OECD Model Treaty, 25.1.1
- Treaty, 25.1.1

Non-discrimination, Canadian Law, 25.2.1

- Canadian company, U.S. resident owned, 25.2.2[d]
- convention expenses, 25.2.2[h]
- deductibility of expenses, 25.2.2[f]
- business deduction limitations, Canadian trusts, 25.2.2[f]
- transaction limitations, related parties, 25.2.2[f]
- dependent persons, deductions, 25.2.2[b]
- exceptions to Article XXV(6), 25.2.2[g]
- residual rule, 25.2.2[g]
- thin capitalization rules, 25.2.2[g]
- joint returns, Canadian resident employed in U.S., 25.2.2[c]
- nationals, 25.2.2[a]
- Contracting State, 25.2.2[a]
- more burdensome test, 25.2.2[a]
- similar circumstances test, 25.2.2[a]
- permanent establishment taxation, 25.2.2[e]
- intercompany dividends, 25.2.2[e]

TOPICAL INDEX

- personal allowances, 25.2.2[e]
- taxes covered, 25.2.2[i]

Non-discrimination, U.S. Law, 25.3

- corporations, 25.3.1[d]
- deduction for dependent support, 25.3.1[b]
- deductions, 25.3.1[f]
- filing and U.S. employment income, 25.3.1[c]
- permanent establishments, 25.3.1[e]
- prohibition against, 25.3.1[a]
- Recent cases, 25.3.2
- taxes covered, 25.3.1[g]

Non-grantor trust, 4.3.1[d]

Non-profit organizations, 21.1.1

Non-resident

- Canadian tax liability, 4.2.1[a], 5.2.1[a]
- carrying on business in Canada, 5.2.1[b], *see also* **Carrying on business in Canada**

Non-resident-owned investment corporation, 10.2.2[g]

Nonresident alien individual, 4.3.1[a]

Notional expenses, 7.2.2[c]

Nova Scotia unlimited liability company, *see* Unlimited liability companies

O

OECD commentary, 7.3.2[f]

OECD information exchange

- global tax evasion, 27.5.1[a]

OECD transfer pricing guidelines, 7.3.2[a]

Office, defined, 15.2.1[b]

Opportunity Zones

- Qualified Opportunity Fund (QOF), 6.1.1[c]
- Tax Cuts and Jobs Act 2017, 6.1.1[c]

Ownership/base erosion test, 29A.5.2[b]

Ownership reporting rules, U.S., *see* U.S. ownership reporting rules

TOPICAL INDEX

P

PE, *see* Permanent establishment

PFIC, *see* Passive foreign investment company

PTI, *see* Previously taxed income

Package fees, 12.2.2[c]

Participating debt interest, 11.2.1[b], 11.5.2[c]

Passive foreign investment company, 24.3.1[a]

Passive income, 7.2.1[a]

Part I tax, 7.2.1[a]

Part XIII tax, 7.2.1[a]

Partnerships

- carrying on business in Canada, 5.2.1[g]
- residence, 4.2.1[e], 4.3.1[c]

PE list, 5.3.2[c]

Pension plans, tax exemption, 21.1.2

Pensions, explanation and interpretation, Canadian Law, 18.2

- alimony, similar amounts
 - alimony, 18.2.7[a]
 - child support, 18.2.7[b]
 - grantor trust, 18.2.7[c]
- annuities, defined, 18.2.5
- foreign retirement plans, 18.2.4
 - employee benefit plan [EBP], 18.2.4
 - retirement compensation arrangement [RCA], 18.2.4
 - salary deferral arrangement [SDA], 18.2.4
- registered retirement plans
 - non-residents, 18.2.2[f]
 - registered pension plans [RPP], 18.2.2[a]
 - registered retirement income fund [RRIF], 18.2.2[b]
 - registered retirement savings plans [RRSP], 18.2.2[b]
- Retirement Compensation Arrangement [RCA], 18.2.1
 - defined, 18.2.3
- unregistered retirement plans, 18.2.3
 - salary deferral arrangement [SDA], 18.2.3

TOPICAL INDEX

Pensions, explanation and interpretation, U.S. Law, 18.3

- alimony, similar amounts
- • alimony, 18.3.7[a]
- • child support, 18.3.7[b]
- annuities, 18.3.5
- • distributions, 18.3.4
- • general rule, 18.3.5
- • simplified method, 18.3.5
- favorable tax treatment of, Revenue Procedure 2014-55, 18.4.8
- individual retirement account [IRA], 18.3.2
- non-qualified plans, 18.3.3
- • funded plans, 18.3.3[a]
- • unfunded plans, 18.3.3[b]
- qualified retirement plan, 18.3.2
- social security, 18.3.6

Pensions, relation to Treaty, 18.4

Permanent establishment, 5.2.2[a], 5.3.2[a]

Permanent establishment of a business, Canadian interpretation of treaty

- agency, 5.2.2[f], [h]
- attribution to, 7.2.2[g]
- construction/building/installation, 5.2.2[d]
- controlled companies, 5.2.2[i]
- deemed, 5.2.2[c]
- • branch, 5.2.2[c]
- • place of management, 5.2.2[c]
- defined, 5.2.2[b]
- excluded activities, 5.2.2[g]
- Fifth Protocol, 5.2.2
- independent agent exception, 5.2.2[h]
- interest income, 11.2.2[e]
- natural resource drilling rigs/ships, 5.2.2[e]
- royalties and rents, 12.2.2[e]
- S Corporations, 5.2.2[b]
- services permanent establishment, 5.2.2[j]
- U.S. LLC, 5.2.2[b]

Permanent establishment of a business, U.S. interpretation of treaty

- agency, 5.3.2[d]
- coordination with other provisions, 5.3.2[f]

TOPICAL INDEX

- e-commerce, 5.3.2[f]
- Fifth Protocol, 5.3.2
- home office, 5.3.2[h]
- hybrid partnerships, 5.2.2[b]
- interest income, 11.3.2[e]
- natural resource drilling rigs/ships, 5.3.2[e]
- nexus, 5.3.2[a]
- OECD Model Tax commentary, 5.3.2[f], 5.3.2[h]
- OECD Model Tax Convention, 5.3.2[f]
- PE list (and exempt list), 5.3.2[c]
- royalties and rents, 12.3.2[e]
- royalties vs personal services income, 12.3.1[c], 16.3.1[e]
- services permanent establishment, 5.3.2[f]
- three-factor test, 5.3.2[a]

Permanent home, 4.2.2[b], 4.3.2[b]

Personal property, defined, 13.2.2[b]

Personal residence exemption, 13.2.2[f]

- section 116 certificate, 13.2.2[f]

Personal services, *see* **Independent personal services**

Place of management, 5.2.2[d]

Political subdivisions and agencies, 29A.3.2[a]

Portfolio interest, 11.3.1[e]

Portfolio (and non) stock, 10.3.2[b]

Previously taxed income, 24.3.1[a]

Principal class of shares, 29A.5.2[d]

Principally, defined, 13.2.2[d]

***Pro rata* unified credit**, 29B.3.2[b]

Protective return, 7.3.1[d]

Protocol 2007, 4.4, 5.4, 7.4, 10.4, 11.4, 12.5, 13.4, 24.4, 29A.4, 29B.4

Publicly traded subsidiary test, 29A.3.2[a]

Publicly traded test, 29A.3.2[a], 29A.5.2[c]

TOPICAL INDEX

Q

QDOT, *see* Qualified domestic trust

Qualified domestic trust, 29B.3.1[g]

Qualified resident, branch profits tax, 29A.3.1[e]

Qualifying person, 29A.3.2[a]

- natural person, 29A.3.2[a]
- other, 29A.3.2[a]
- political subdivisions and agencies, 29A.3.2[a]
- publicly traded subsidiary test, 29A.3.2[a]
- publicly traded test, 29A.3.2[a], 29A.5.2[c]
- shareholder and base erosion tests, 29A.3.2[a]

R

REIT, *see* Real estate investment trusts

REMIC, *see* Real estate mortgage investment conduit

RIC, *see* Regulated investment companies

Re-characterization rules, 13.2.1[c]

Real estate investment trusts, 10.3.2[g]

- dividends paid by, 10.5.2[c]

Real estate mortgage investment conduit, 11.3.2[i]

- special rules, interest, 11.5.2[c]

Real property, defined, 6.3.2[b], 13.2.2[d]

- U.S. based, taxation of Canadians, 6.3.1
- capital gains and Article XIII, 6.3.2[c]
- financing of, 6.3.1[d]
- partnership, 6.3.1[c]
- rental income, 6.3.1[b]
- sale of, 6.3.1[e]
- Treaty, 6.3.2[a]

Reason of death, *see* Death of taxpayer

Registered Education Savings Plans (RESP)

- relation to treaty, 18.4.8

Regulated investment companies, 10.3.2[g]

TOPICAL INDEX

Related persons

- business profits of non-residents, 7.2.2[b]
- non-arm's length transactions, 11.2.1[i]
- transfer pricing rules, proposed amendments, 9.1.2, 9.2.1[f]

Rents and royalties, *see* Royalties

Reorganizations, corporate, 10.2.1[g]

Reporting requirements

- business profits, 7.2.1[d], 7.3.1[d]
- disposition of taxable Canadian property, 13.2.1[e]
- form 1120F, 7.3.1[d]
- protective return, 7.3.1[d]
- rents and royalties, 12.2.1[j]
- U.S. ownership reporting rules
 - business profits, 7.1.4, 7.3.1[e]
 - dividends, 10.1.2
 - interest, 11.1.2
 - limitation on benefits, 29A.1.2, 29A.3.1[f]

Residence, Canadian interpretation of treaty, 4.2.2

- dual, corporations, 4.2.2[c]
- dual, individuals, 4.2.2[b]
 - citizenship test, 4.2.2[b]
 - center of vital interests, 4.2.2[b]
 - habitual abode, 4.2.2[b]
 - permanent home, 4.2.2[b]
 - treaty tie-breaker tests, 4.4.4[b]
- *Forest* case, 4.2.2[a]
- green card holders and U.S. citizens, 4.2.2[a]
- tie-breaker rules for, 4.2.2[a]
- governmental employees and their family members, 4.2.2[e]
- government of the U.S. or its political subdivisions, 4.2.2[a]
- partnerships, 4.2.2 [a]
- resident, defined, 4.2.2[a]
- trust or estate, 4.2.2[a]
 - mutual agreement, 4.2.2[d]
- U.S. citizen resident in Canada, 24.2.2[d]
- U.S. limited liability company (LLC), 4.2.2[a]
- U.S. S-corporation, 4.2.2[a]

TOPICAL INDEX

Residence, Canadian law, 4.2.1

- corporations, 4.2.1[d]
- • common law, 4.2.1[d]
- • deeming provisions, 4.2.1[d]
- • dual, 4.2.1[e]
- • mergers and liquidations, 4.2.1[e]
- defined, 4.2.1[a]
- dual, 4.1, 4.2.1[a]
- defined, common law, 4.2.1[b]
- employed by Canadian Forces, 4.2.1[c]
- employed by Canadian government, 4.2.1[c]
- fiscal domicile, 4.1
- general concept of, 4.2.1[a]
- individuals, 4.2.1[c]
- • deeming rules, 4.2.1[c]
- • factual, 4.2.1[c]
- ordinary, 4.2.1[c]
- partnerships, 4.2.1[e]
- part-time, 4.2.1[c]
- tie-breaker rules, 4.1, 4.2.1[e]
- trusts and estates, 4.2.1[f]
- • management and control, 4.2.1[f]

Residence, Fifth Protocol commentary, 4.5

- application of Art. IV(6) by Canada, 4.5.2[c]
- corporate continuations, 4.5.1[a]
- entry into force, 4.5.1
- fiscal transparency, 4.5.2[b]
- hybrid entities, 4.5.1[b], 4.5.2[b], 4.5.2[c]
- • anti-avoidance rule, 4.5.2[d]
- • beneficial ownership, 4.5.2[e]
- • saving clause, 4.5.2[f]
- permanent establishment, 4.5.2[c]
- positive and negative rules, 4.5.2[b]
- same treatment test, 4.5.2[b]
- tie-breaker rule, 4.5.2[a]

Residence, of trust, 4.2.1[f], 22.2.1[a], 29B.2.1[b]

Residence, U.S. domestic law, 4.3.1

- corporations
- • domestic, 4.3.1[a]
- • foreign, 4.3.1[a]

TOPICAL INDEX

- • S-corporation, 4.3.1[a]
- fiscally transparent entities, 4.3.1[b]
- • grantor trusts, 4.3.1[b]
- • LLCs, 4.3.1[b]
- • S-corporations, 4.3.1[b]
- • section 894(c) hybrid entities, 4.3.1[b]
- individuals
- • dual, 4.3.1[e]
- • first and last years of, 4.3.1[a]
- • green card holder, 4.3.1[a]
- • nonresident alien individual (NRA), 4.3.1[a]
- • permanent, 4.3.1[a]
- • substantial presence test, 4.3.1[a]
- • U.S. citizen, 4.3.1[a]
- partnerships, 4.3.1[c]
- qualified resident, branch profits tax, 29A.3.1[e]
- trusts and estates, 4.3.1[d]
- • foreign trust or estate, 4.3.1[d]
- • grantor trust, 4.3.1[d]
- • non-grantor trust, 4.3.1[d]

Residence, U.S. interpretation of treaty, 4.3.2

- centre of vital interests, 4.3.2[b]
- citizenship test, 4.3.2[b]
- defined, 4.3.2[a]
- dual, 4.3.2[b], 4.3.2[c]
- governmental employees and their family members, 4.3.2[e]
- habitual abode, 4.3.2[b]
- permanent home, 4.3.2[b]
- “saving” clause, 4.3.2[a]
- tie-breaker rules, 4.3.2[b]
- trusts or estate
- • mutual agreement, 4.3.2[d]

Residual clause, exempt gains, 13.2.2[d]

Returns, tax, Canadian by non-resident, 7.2.1[d]

Revenue Rule, 26A.1

- explanation and history, 26A.2.1

Rollovers, 13.2.1[b]

- spousal, 29B.5.2[b]

Royalties and rent, 12.1

TOPICAL INDEX

Royalties and rent, Canadian domestic taxation, 12.2

- carrying on business in Canada, 12.2.1[f]
- defined, 12.2.1[a]
- mixed contract payments, 12.2.1[d]
- motion pictures, 12.2.1[i]
- non-arm's length payments, 12.2.1[k]
- reporting requirements, 12.2.1[j]
- sale vs. lease or rental, 12.2.1[e]
- similar payments, 12.2.1[b]
- taxation of, 12.2.1[l]
- withholding, 12.2.2[j]

Royalties and rent, Canadian interpretation of treaty, 12.2.2

- beneficial ownership, 12.2.2[b]
- copyright, 12.2.2[c]
- definition, 12.2.2[d]
- excess, 12.2.2[g]
- franchise agreements, 12.2.2[c]
- mixed contracts, 12.2.2[c]
- package fees, 12.2.2[d]
- permanent establishment, 12.2.2[e]
- residence-based jurisdiction to tax, 12.2.2[a]
- source-based jurisdiction to tax, 12.2.2[b]
- exceptions to, 12.2.2[c]
- source rules, 12.2.2[f]
- treaty rates, 12.2.2[b]
- triangular payments, 12.2.2[h]

Royalties and rent, Fifth Protocol commentary, 12.6

- entry into force, 12.6.1
- fiscally transparent entity, 12.6.2
- franchise agreements, 12.6.2[b]

Royalties and rent, U.S. interpretation of treaty, 12.3.2

- definition, 12.3.2[d]
- excess, 12.3.2[g]
- permanent establishment, 12.3.2[e]
- reduced rates, 12.3.2[b]
- residence-based jurisdiction to tax, 12.3.2[a]
- source rules, 12.3.2[f]
- sourced-based jurisdiction to tax, 12.3.2[c]
- exceptions, 12.3.2[c]
- triangular payments, 12.3.2[h]

TOPICAL INDEX

Royalties and rent, U.S. taxation of outbound payments, 12.3.1

- anti-hybrid provisions, 12.3.1[f]
- characterization, 12.3.1[b]
- definition, 12.3.1[a]
- non-arm's length payments, 12.3.1[g]
- source of, 12.3.1[d], 12.3.1[e]

S

SIFT, *see* Specified investment flow-through entities

S-corporations, 4.2.2[a], 4.3.1[b], 5.2.2[b], 29.3.1[e]

Safe harbour test, 29A.3.2[b]

Sailing permit, 14.3.1[c]

Same treatment test, 4.5.2[b]

“Saving clause”, 4.3.2[a], 4.5.2[f], 11.5.2[f], 24.2.2[c], 24.2.2[d]

Section 116 certificate, 13.2.1[e]

Section 164 deduction, 24.3.1[b]

Section 894(c) hybrid entities, 4.3.1[b], 4.5.2[b], 29A.3.1[d]

Section 902 indirect foreign tax credit, 24.3.1[d]

Section 904 limitation, 24.3.1[e]

Section 904(d) separate limitation categories, 24.3.1[e]

Section 904(h) look-through to U.S. source, 24.3.1[e]

Section 904(f) overall foreign losses, 24.3.1[e]

Section 960 credit, 24.3.1[d]

Separate limitation categories, 24.3.1[e]

Series of transactions, 29A.2.1[b]

Service provider, defined, 14.2.1[b]

Services Permanent establishment, Fifth Protocol commentary, 5.2.2[a], 5.3.2[a]

- attribution of business profits, 7.5.2[b]
- connected projects, 5.2.2[j]
- construction services, 5.2.2[j]
- “enterprise”, meaning, 5.2.2[j]

TOPICAL INDEX

- enterprise, separate, 5.2.2[j]
- enterprise test, 5.2.2[j], 5.3.2[f]
- entry into force, 5.2.2[a], 5.3.2[a]
- gains, 13.5.2[a]
- hybrid entities, 4.5.2[c], 5.2.2[b]
- late filed tax returns, 5.2.2[j]
- limited liability companies (L.L.C.), 5.2.2[b]
- recipient of services, 5.2.2[j]
- single individual test, 5.2.2[j], 5.3.2[f]
- tax compliance, 5.2.2[j]
- third party test, 5.2.2[j]
- timing of, 7.5.2[a]

Sham transaction doctrine, 29A.3.1[c]

Shareholder debt, 10.2.1[h]

Shareholder test, 29A.3.2[a]

Shares, disproportionate classes of, 29A.5.2[e]

Shares, principal class of, 29A.5.2[d]

Shares, valuation, 13.2.2[c]

Single individual test, 5.2.2[j], 5.3.2[f]

Small estates relief, 29B.3.2[e]

Social Security, 18.2.6

- taxes, relief from, 29.3.1[d]

Social security agreements, 15.2.1[f]

Sojourn, 4.2.1[c]

Sourcing rules, U.S., 7.3.1[b], 10.3.1[d]

- double taxation, override of, 24.2.2[c], 24.3.2[b]
- income from employment, 15.2.2[a], 15.3.1[c]
- independent personal services, 14.3.1[b]
- interest, 11.2.1[g], 11.3.1[c], 11.3.2[f]
- royalties, 12.2.2[f], 12.3.2[f]
- sections 861, 862, 863, 865, 7.3.1[b]
- U.S. citizen resident in Canada, 24.2.2[f]

Special relations, 11.2.2[g]

Specified investment flow-through entities, 10.2.1[e]

Spousal rollovers, 29B.5.2[b]

TOPICAL INDEX

Students, Canadian studying abroad, taxation of, 20.2.1[c]

Students, foreign, Canadian interpretation of treaty, 20.2.2

- duration of relief, Article XX, 20.2.2[b]
- principal purpose, 20.2.2[a]

Students, foreign studying in Canada, taxation of, 20.2.1

- educational payments received, 20.2.1[b]
- scholarships received, 20.2.1[b]
- tax residence, 20.2.1[a]

Substantial presence test, 4.3.1[a], 29A.3.2[b], 29A.5.2[h]

- safe harbour test, 29A.3.2[b]

Substitute properties, 13.2.1[d]

Support payments, *see* Alimony

Swiss bank scandals, 27.5.1[a]

T

Tax benefit, 29A.2.1[b]

Tax collection, U.S. law, 26A.3

- collection and administration, 26A.3.1[d]
- foreign government as plaintiff, 26A.3.1[a]
- offshore voluntary disclosures, 26A.3.1[b]
- Treaty, 26A.3.2
 - article, 26A.3.2[a]
 - procedures, 26A.3.2[b]
 - proceeds/costs, 26A.3.2[d]
 - relationship with other Treaty articles, 26A.3.2[e]
 - treatment of process, 26A.3.2[c]
- voluntary disclosure process, 26A.3.1[c]

Tax Cuts and Jobs Act 2017

- commentary, 24.1.1, 29A.1.1, 29B.1.1
- excerpts from Act
 - Title I, Subtitle G, Estate, Gift, and Generation-Skipping Transfer Taxes, 29B.1.1
 - Title IV, Subtitle A, Establishment of Participation Exemption System for Taxation of Foreign Income, 10.6
 - Title IV, Subtitle B, Modifications Related to Foreign Tax Credit Systems, 10.6, 24.6
 - Title IV, Subtitle C, Modification of Subpart F Provisions, 10.6

TOPICAL INDEX

- • Title IV, Subtitle D, Prevention of Base Erosion, 9.5, 10.6, 11.6
- • Title IV, Subtitle F, Other International Reforms, 29A.6.2
- treaty benefits, limitations, 29A.1.1[a]

Tax Cuts and Jobs Act 2017

- Canada-U.S. cross border investment, 7.1.1[a], 10.1.1[a]
- • Base Erosion and Anti-Abuse Tax (BEAT), 7.1.1[a], 10.1.1[a], 12.1.1[b]
- • Canadian investments to U.S., 7.1.1[a], 10.1.1[a]
- • Code Section 199A, 7.1.1[a], 10.1.1[a], 13.1.1[b]
- • Code Section 245A, 7.1.1[a], 10.1.1[a]
- • Code Section 250, 7.1.1[a], 10.1.1[a], 12.1.1[b]
- • Code Section 951A, 7.1.1[a], 10.1.1[a], 12.1.1[b]
- • Code Section 965, 7.1.1[a], 10.1.1[a]
- interest, deduction limitation, 11.1.1[a]
- interest, disqualification, 11.1.1[a]
- Opportunity Zones
- • capital gain deferral, 6.1.1[c]
- • designation requirements, 6.1.1[c]
- • Qualified Opportunity Fund (QOF), 6.1.1[c]
- partnership interest, 6.1.1[a], 13.1.1[a]
- • “asset use” test, 6.1.1[a], 13.1.1[a]
- • “business activities” test, 6.1.1[a], 13.1.1[a]
- • “effectively connected”, 6.1.1[a], 13.1.1[a]
- • “effectively connected gain or loss”, 6.1.1[a], 13.1.1[a]
- • tax rate, 6.1.1[a], 13.1.1[a]
- • withholding, 6.1.1[a], 13.1.1[a]
- property, intangible, 12.1.1[a]
- qualified business income, deduction, 6.1.1[b], 13.1.1[a]
- • tax rate, 6.1.1[b], 13.1.1[a]
- transfer pricing, 9.1.1[a], 12.1.1[a]
- transfers of intangibles, 9.1.1[a], 12.1.1[a]

Tax deferred rollovers, 13.2.1[b]

Tax Free Savings Accounts (TFSA)

- relation to treaty, 18.4.8

Tax returns, by non-resident, 7.2.1[d], 7.3.1[d]

Taxable Canadian property, 13.2.1[a], 13.2.1[d]

- interests and options in, 13.2.1[d]

Three-factor test, 5.3.2[a]

Tie-breaker rule 4.5.2[a]

TOPICAL INDEX

Trade or business, 29A.3.2[b]

- “incidental to”, 29A.3.2[b]
- “in connection with”, 29A.3.2[b]
- substantiality test, 29A.3.2[b]

Transfer pricing

- non-arms’ length payments, 11.2.1[i], 12.2.1[k]
- proposed amendments to Canadian rules, 9.1.2, 9.2.1[f]
- recent cases, 9.2.1[e]
- Tax Cuts and Jobs Act 2017, 9.1.1[a], 12.1.1[a]
- U.S. principles, 9.3.1
 - arm’s length standard, 9.3.1[a]
 - outbound IP transfers, 9.3.1[b]
 - Treaty, 9.3.2
 - arm’s length standard, 9.3.2[a]
 - associated enterprises, 9.3.2[b]
 - secondary adjustments under Article 9, 9.3.2[c]

Transfers to alien spouse, 29B.3.1[g]

- qualified domestic trust (QDOT), 29B.3.1[g]

Transport employees, international, 15.5.5[c]

Transportation income, taxation of, Canadian interpretation of treaty, 8.2.2

- containerization, 8.2.2[a]
- pool transportation, 8.2.2[e]
- profits, common or contract carrier, 8.2.2[d]
- disposition of transportation assets, 8.2.2[d]
- rental income, 8.2.2[d]
- profits, defined, 8.2.2[b]
- profits, domestic transportation, 8.2.2[c]
- defined, 8.2.2[c]
- principal purpose test, 8.2.2[c]
- profits, international traffic, 8.2.2[a]
- rental payments received, 8.2.2[f]

Transportation income, taxation of, Canadian law, 8.2.1

- Canadian resident, 8.2.1
- defined, 8.2.1
- disposition of transportation equipment, 8.2.1[c]
- international shipping companies, 8.2.1
- residence, 8.2.1[a]
- non-resident, 8.2.1

TOPICAL INDEX

- rents received, 8.2.1[b]
- royalties received, 8.2.1[b]

Transportation income, taxation of, U.S. interpretation of treaty, 8.3.1

- Canadian tax, 8.3.1[a]
- joint pool, 8.3.1[e]
- land transportation, 8.3.1[f]
- motor vehicle/railway, 8.3.1[d]
- shipping/cruise ships, 8.3.1[c]
- profits, defined, 8.3.1[b]

Treaty shopping, 29A.2.1[c]

Treaty tie-breaker tests, 4.2.2[b]

Triangular interest payments, 11.2.2[h], 11.3.2[h]

Triangular royalty payments, 12.2.2[h]

Trusts and estates

- disproportionate interest in trust, 29A.5.2[e]
- foreign, 29B.3.1[i]
- grantor (non-grantor) trusts, 4.3.1[d], 29B.3.1[i]
- residence, 4.2.1[f], 4.3.1[d]
- taxation of, 29B.3.1[i]
- U.S. taxation of, 22.3.1
 - foreign trusts, 22.3.1[b], 22.3.1[d]
 - gambling losses, 22.3.2[c]
 - grantor trusts, 22.3.1[a]
 - guarantee fees, 22.3.2[d]
 - income from U.S. estate or trust, 22.3.2[b]
 - irrevocable trusts, 22.3.1[e]
 - tax income not dealt with in Treaty, 22.3.2[a]
 - withholding payments from U.S. trusts and estates, 22.3.1[f]
 - withholding payments to Canadian trusts and estates, 22.3.1[c]

2007 Protocol, *see* Protocol 2007

U

USTB, *see* U.S. trade or business

United States Model Income Tax Convention, Appendix

United States Model Technical Explanation Accompanying U.S. Model Income Tax Convention, Appendix

TOPICAL INDEX

Unlimited liability companies, 10.2.1[d], 10.3.1[a]

U.S. accumulated earnings tax, *see* **Accumulated earnings tax**

U.S. citizen resident in Canada, 24.2.2[d], 24.2.2[e], 24.2.2[f], 24.3.2[g], 24.3.2[h], 24.3.2[I]

U.S. government remuneration, taxation of, Canadian interpretation of treaty, 19.2.3

- Article XIX, 19.2.3[b]
- exceptions, 19.2.3[c]
- functions, 19.2.3[d]
- recent cases, 9.2.1[e]
- relief, U.S. citizens, 19.2.3[a]

U.S. net equity, *see* **Net equity**

U.S. ownership reporting rules, *see also* **Beneficial ownership**

- business profits, 7.1.4, 7.3.1[e]
- Corporate Transparency Act, 10.1.2
- dividends, 10.1.2
- interest, 11.1.2
- limitation on benefits, 29A.1.2

U.S. real property, *see* **Real property**

U.S. trade or business, 5.3.1[a]

W

Withholding tax

- dispositions of taxable Canadian property, 13.2.1[e]
- dividends, 10.1, 10.2.1[f], 10.3.1[e]
- form NR4, 10.2.1[f]
- income from employment, 15.2.1[e], 15.3.1[d]
- independent personal services, 14.2.1[e], 14.3.1[c]
- management fees, 7.2.2[i]
- interest, 11.2.1[d], 11.2.1[h], 11.2.2[b], 11.3.1[e]
- rents and royalties, 12.2.1[j]