

# WISE & COMPANY

## PROFESSIONAL ACCOUNTANTS

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### FOREIGN ASSET REPORTING WAIVER

<b>1(a)</b>	<b>Did you own foreign real property with a total cost of more than \$100,000 Canadian at any time during 2022?</b>	<b>YES</b>	<b>NO</b>
<b>1(b)</b>	<b>If "Yes" to Q.1(a) is the foreign property used 100% for personal use [ie: vacation property]</b>	<b>YES</b>	<b>NO</b> (T1135)
<b>2.</b>	<b>Did you sell any foreign real property in 2022?</b>	<b>YES</b>	<b>NO</b>
<b>3.</b>	<b>Did you own foreign portfolio investments with a total cost of more than \$100,000 Canadian at any time during 2022?</b>	<b>YES</b> (T1135)	<b>NO</b>
<b>4.</b>	<b>Do you currently have, or have you previously had, any foreign affiliates?</b>  [A foreign affiliate is defined as a foreign corporation of which you own more than 1% of the equity and of which individuals directly related to you own not less than 10% of the equity]	<b>YES</b> (T1134)	<b>NO</b>
<b>5.</b>	<b>Did you have any transfers or loans to a foreign trust?</b>  [A trust exists when a person or group of persons [the Trustee(s)] holds property, whether real or personal [the Trust Property], for the benefit of other persons [the Beneficiaries]. A trust is considered foreign when the Trustee is resident outside of Canada.	<b>YES</b> (T1141)	<b>NO</b>
<b>6.</b>	<b>Did you have any distributions from a foreign trust, not including a foreign estate?</b>	<b>YES</b> (T1142)	<b>NO</b>

<b>Name :</b>		
<b>Signature :</b>		
<b>Date :</b>		

All legislative references on this sheet refer to the *Income Tax Act* (the Act).

If the reporting taxpayer is a partnership, references to year or tax year should be read as fiscal period and references to taxpayer should be read as partnership.

## Filing this statement

File this statement with your tax return or, if a partnership, with your partnership information return.

If you do not have to file a tax return or a partnership information return, or you use E-file, send this statement separately to:

Ottawa Technology Centre  
Data Assessment and Evaluations Program  
Foreign Reporting Unit  
875 Heron Road  
Ottawa ON K1A 1A2

## Do you have to file this statement?

Canadian resident individuals, corporations, and trusts, as well as partnerships, who held certain property outside Canada with a total cost amount of more than \$100,000 at any time in the tax year, have to file Form T1135, *Foreign Income Verification Statement*.

Non-resident discretionary trusts, as defined under section 94 of the Act, may also have to file this statement.

As an individual (other than a trust) you do **not** have to file this statement for the year in which you first become a resident of Canada.

You do not have to report information about property held for personal use. This includes vacation property used by you primarily as a personal residence, as well as listed personal property such as works of art, jewellery, rare folios, rare manuscripts, rare books, stamps, and coins. See the latest version of Interpretation Bulletin IT-332, *Personal-Use Property*, for more details about personal property. You also do not have to report property used or held by you exclusively in an active business.

You do not have to file this statement for the following entities:

- ⊕ corporations
  - mutual fund corporations;
  - non-resident-owned investment corporations;
  - corporations exempt from tax under Part I of the Act;
  - a registered investment under section 204.4 of the Act;
- ⊕ trusts
  - mutual fund trusts;
  - trusts described in paragraphs (a) to (e.1) of the definition of **trust** in subsection 108(1) of the Act;
  - trusts exempt from tax under Part I of the Act;
  - a registered investment under section 204.4 of the Act;
  - a trust in which all persons beneficially interested are either corporations or trusts listed above;
- ⊕ partnerships
  - partnerships all the members of which are corporations or trusts referred to above;
  - partnerships where the share of the partnership's income or loss for non-resident members is 90% or more of the income or loss of the partnership;
- ⊕ persons (other than corporations or trusts) exempt from tax under Part I of the Act.

## Examples

Q. I am an individual who owns shares in a non-resident corporation with a cost amount of \$75,000. I also have a bank account in the United States of the foreign properties that I own have a cost amount greater than \$100,000, do I have to file Form T1135?

A. Yes. In this case, the statement should be filed since the total cost amount of all foreign properties owned is \$110,000. You should add up the cost amount of each foreign property that you own in the year to determine if, at any time in the year, the total of those cost amounts exceeded \$100,000 (in Canadian dollars). Cost amount is defined in subsection 248(1) of the Act. You can also see the income tax guide called *Capital Gains*. If the \$100,000 threshold is exceeded at any time in the year, you are required to file Form T1135.

Q. How do I know the cost amount of foreign property that I acquired before immigrating to Canada?

A. In determining the cost of foreign property acquired before becoming a resident of Canada, use the fair market value of the property at the time you became a resident.

Q. How do I know the cost amount of foreign property acquired by way of gift or inheritance?

A. Where foreign property is acquired by way of gift or inheritance, use the fair market value at the time the gift was received or at the time you received the inheritance.

Q. I have a self-directed registered retirement savings plan (RRSP) which has over \$100,000 in foreign securities. Does the trust (i.e., the RRSP) have to file Form T1135?

A. A trust governed by a RRSP does not have to file Form T1135.

Q. My husband and I have a joint foreign bank account and joint ownership of other foreign property. The total cost of the foreign property we own jointly is \$180,000. Are we required to file Form T1135? If so, who has to file the form?

A. The proportionate ownership of the foreign property is based on the amount contributed by each person. If the contribution by one person is more than \$100,000, that person has to file Form T1135.

## What property do you have to report?

You only have to report property that is specified foreign property.

Specified foreign property **includes**:

- ⊕ funds in foreign bank accounts;
- ⊕ shares of Canadian corporations on deposit with a foreign broker;
- ⊕ shares of non-resident corporations held by the resident filer or on deposit with a Canadian or foreign broker;
- ⊕ land and buildings located outside Canada, such as a foreign rental property;
- ⊕ precious metals, gold certificates, and futures held outside Canada;
- ⊕ interests in mutual funds that are organized in a foreign jurisdiction;
- ⊕ debts owed by non-resident persons, such as government or corporate bonds, debentures, mortgages, and notes receivable;
- ⊕ an interest in or a right to any specified foreign property;
- ⊕ property that is convertible or that can be exchanged for a right to acquire specified foreign property;
- ⊕ an interest in a partnership where the share of income or loss of the partnership for non-resident members is 90% or more and the partnership holds specified foreign property;
- ⊕ an interest in a non-resident trust or a non-resident trust deemed to be resident by section 94 of the Act (discretionary trust);
- ⊕ patents, copyrights or trademarks held outside Canada; and

- Ⓞ an interest in, or a right with respect to, an entity that is non-resident.

Specified foreign property **does not include**:

- Ⓞ property used or held exclusively in the course of carrying on an active business;
- Ⓞ personal-use property (i.e., property used primarily for personal use and enjoyment, such as a vacation property used primarily as a personal residence);
- Ⓞ an interest in a U.S. Individual Retirement Account (IRA);
- Ⓞ shares of the capital stock, or indebtedness, of a non-resident corporation that is a foreign affiliate;
- Ⓞ an interest in, or indebtedness, of a non-resident trust that is a foreign affiliate;
- Ⓞ an interest in a non-resident trust that neither you nor a person related to you had to pay for in any way;
- Ⓞ an interest in a non-resident trust principally providing superannuation, pension, retirement or employee benefits primarily to non-resident beneficiaries, that does not pay income tax in the taxing jurisdiction where it is resident; or
- Ⓞ an interest in, or a right to acquire any of the above-noted excluded foreign property.

## Examples

Q. I am an individual who owns shares in non-resident corporations with a total cost amount of \$250,000. These shares are held by a Canadian stockbroker. Do I have to report these shares on Form T1135?

A. You must report all shares of non-resident corporations (other than foreign affiliates) regardless of whether the shares are physically held inside or outside Canada. Since the cost amount of your shares exceeds \$100,000, you have to report the shares on Form T1135.

Q. I am an individual who owns units in a mutual fund trust. The cost amount of the units is \$150,000. The mutual fund invests entirely in foreign securities. Do I have to file Form T1135?

A. If the mutual fund trust is resident in Canada, you do not have to file Form T1135. If you had an interest in a non-resident trust you might have to file the form. The type of investment held by a mutual fund trust does not determine its residency status. This also applies to a mutual fund corporation.

Q. I own a condominium in Florida that has a cost amount of \$120,000. Am I required to file Form T1135 if the property is:

- (a) only for personal use?
- (b) rented out for eight months of the year with a reasonable expectation of profit and kept for personal use the other four months?
- (c) rented out year round with a reasonable expectation of profit?

A. If the property is personal use property (i.e., property owned by you that is used by you or someone related to you primarily for personal use and enjoyment) you do not have to report the property on Form T1135. As a result, in situation

(a), you would not need to report the condominium since it is held primarily for personal use and enjoyment.

In situations

(b) and (c), the property is an income-earning investment property that is not held primarily for personal use and enjoyment. As a result, since the cost amount is more than \$100,000, you have to file Form T1135.

Q. My Canadian corporation has a warehouse in England which it uses to store its products for distribution. The cost amount of the warehouse is \$900,000. Should the corporation report this property on Form T1135?

A. You do not have to report property that is used or held exclusively in an active business. Since the warehouse is used exclusively for storing inventory used in the corporation's business, it does not have to be reported on Form T1135.

Q. I have \$200,000 in U.S. treasury bills. Do I have to file Form T1135? What if I do not hold the treasury bills at the end of the year?

A. Yes. You should report indebtedness owed by a non-resident on Form T1135. Report the property even if you did not hold it at the end of the year, as long as you held it at any time in the year.

## How to complete this statement Identification

Check the appropriate box to identify the type of taxpayer reporting and provide the name, address, and identification number of the reporting taxpayer. Provide the tax year for which this statement is being filed.

## Type of Property

For each type of property, check the box which corresponds to the cost amount of the property at the end of the year. Report the property if you owned it at any time in the year, i.e., report the property even if you did not own it at the end of the year, but did at some time in the year. If you do not own the property at the end of the year, use its cost amount at the time of disposition.

### 1. Funds held outside Canada

Funds outside Canada include money on deposit in foreign bank accounts and money held with a foreign depository for safekeeping or held by any other institution. For this reporting requirement, funds include negotiable instruments such as cheques and drafts. (Marketable securities such as notes, bonds, and debentures issued by non-residents should be reported under the section called "Indebtedness owed by non-residents".)

### 2. Shares of non-resident corporations, other than foreign affiliates

Report shares of non-resident corporations whether or not they are listed on a stock exchange or are physically held inside or outside Canada. Do not report shares in a corporation that is your foreign affiliate. Generally, a foreign affiliate is a non-resident corporation (or certain non-resident trusts) in which you hold at least 1% of the shares individually and (either alone or with related persons) hold 10% or more of the shares. If this is the case, you should obtain Form T1134A, *Information Return Relating to Foreign Affiliates that are not Controlled Foreign Affiliates*, or Form T1134B, *Information Return Relating to Controlled Foreign Affiliates*.

### 3. Indebtedness owed by non-residents

Report all amounts owed to you by a non-resident person. Include all promissory notes, bills, bonds, commercial paper, loans, mortgages, and indebtedness issued by a non-resident person. Do not include indebtedness owed to you by your foreign affiliate.

### 4. Interests in non-resident trusts

Report any interest in a non-resident trust (other than a trust that is your foreign affiliate), including a non-resident trust deemed to be a resident by section 94 of the Act. You do not have to report your interest in the following types of trusts:

- Ⓞ a trust that is governed by a U.S. Individual Retirement Account (IRA);
- Ⓞ a non-resident trust that neither you nor a person related to you had to pay for in any way; and
- Ⓞ a non-resident trust principally providing superannuation, pension, retirement or employee benefits primarily to non-resident beneficiaries, that does not pay income tax in the taxing jurisdiction where it is resident.

### 5. Real property outside Canada

Report any real estate holdings that you have outside of Canada, other than real estate used in an active business or for personal use. For example, if you have a rental property outside Canada it should be included in this area.

### 6. Other property outside Canada

Other property means the following:

- Ⓞ precious metals or bullion (e.g., gold and silver) situated outside Canada;
- Ⓞ precious stones situated outside Canada;
- Ⓞ shares in corporations resident in Canada held by you or for you outside of Canada;
- Ⓞ commodity or future contracts, options or derivatives that constitute a right to, a right to acquire, or an interest in, specified foreign property; and
- Ⓞ any other right to, right to acquire, or interest in, specified foreign property.

### **Total income reported**

Report the total amount of income (or loss) earned on the reported assets in the year. Include any taxable capital gain or loss on the disposition of the asset. Amounts should be rounded to the nearest dollar.

### **Certification**

This area should be completed and signed by:

- Ⓞ the person filing Form T1135 in the case of an individual;
- Ⓞ an authorized officer in the case of a corporation;
- Ⓞ the trustee, executor or administrator if the person filing the statement is a trust; or
- Ⓞ an authorized partner in the case of a partnership.

### **Name of the person who completed this statement**

If you are not the reporting taxpayer, and were paid to prepare this statement, give your name and address.

### **Due dates for filing this statement**

The reporting requirements for specified foreign property apply to tax years that begin after 1997. Form T1135 must be filed annually on or before the due date of your income tax return, or the partnership information return in section 229 of the Regulations to the Act in the case of a partnership.

In no case is Form T1135 due before April 30, 1999.

### **Foreign currency conversion**

When converting amounts (i.e., income received on foreign property or the cost amount of the property) into Canadian dollars from a foreign currency, you should use the exchange rate in effect at the time of the transaction (i.e., the time the income was received or the property was purchased). However, if you received income throughout the year, you can use an average rate for the year.

### **More information**

If you need more information you can write, phone or visit your tax services office. The address and telephone numbers are listed under "Canada Revenue Agency" in the Government of Canada section of your telephone book.

### **Penalties for non-reporting**

There are substantial penalties for failing to complete and file Form T1135 by the due date.

### **Voluntary disclosures**

To promote compliance with Canada's tax laws, we encourage you to voluntarily correct any deficiencies in your past tax affairs. You can make a voluntary disclosure by contacting your tax services office.

The address and telephone numbers are listed under "Canada Revenue Agency" in the Government of Canada section of your telephone book.

For more information, see Information Circular 85-1R2, *Voluntary Disclosures*.