

International Financial Activity Act Overview

International Financial Activity Act

The *International Financial Activity Act, 2004* (IFAA) and related regulation provide the legislative framework for the International Financial Activity (IFA) program described in this bulletin.

The IFA program came into effect on September 1, 2004 and replaces the *International Financial Business (Tax Refund) Act*, which has been repealed.

The IFA program provides eligible corporations and specialists who work for those corporations a refund of the British Columbia income tax paid on income related to the corporation's international financial activities carried on in British Columbia.

On February 21, 2006, the government proposed to eliminate the interest adjustment formula in the calculation of the tax refund, effective September 1, 2004, the commencement date of the IFAA. This bulletin assumes the amendments will be enacted by the legislature and proclaimed in force.

The IFA program is expanded, effective January 1, 2006, to include refunds of British Columbia corporate income taxes on income derived from certain patents. Please read this bulletin in conjunction with [Bulletin IFA 002, Life Science Patents](#).

The information in this bulletin is provided for your convenience and guidance and is not a replacement for the legislation. The *International Financial Activity Act* and Regulation can be found on the web at www.sbr.gov.bc.ca/itb

In this issue...

- ***Registration in the IFA program***
- ***International financial activities***
- ***Calculation of the tax refund***
- ***Filing requirements***

REGISTRATION IN THE IFA PROGRAM

The application forms and guide for registration of a corporation and of a specialist are available on the web at www.sbr.gov.bc.ca/itb/ifa/ifaforms.htm

Corporations

A corporation will qualify for registration under the IFA program if the corporation:

- was incorporated in Canada and since incorporation has not been continued outside of Canada,
- has a permanent establishment in British Columbia,
- is not exempt from income tax under the *Income Tax Act*,
- establishes and carries on an international financial business within 90 days of registration,
- establishes and maintains a membership in the International Financial Centre British Columbia Society,

- keeps its books and records in British Columbia, and
- pays an application and registration fee of \$5,000.

An international financial business (IFB) of a corporation is a business, or part of a business, that carries on international financial activities as defined below.

The IFB must be part of an active business and carried on through a fixed place of business in British Columbia.

IFA Specialists

A registered corporation may apply to register an employee as an IFA specialist if the following conditions are met.

- Prior to registration, the employee specializes in international financial activities other than back-up office services or administrative support services as described below.
- The employee was either a non-resident of Canada immediately before entering into a written employment contract with the registered corporation, or was previously registered as a specialist.
- The terms of the written contract of employment require that at least 70% of the individual's working time is devoted to performing international financial activities for the corporation.

An employee can only be an IFA specialist for five years from the time the employee is first registered.

INTERNATIONAL FINANCIAL ACTIVITIES

The following activities qualify as international financial activities if carried out for, with or on behalf of a non-resident, and may be done on either an arm's length, non-arm's length or affiliated basis, unless otherwise noted.¹

- Accepting or making deposits in any currency².
- Making loans or borrowing in any currency².
- Guaranteeing the payment of a debt, if all of the debtors or all of the creditors of the debt are non-residents.

- Dealing in securities (including derivatives) as principal for the purpose of managing the financial risk of a non-resident person, other than a risk with respect to the change in value of a commodity. This allows a corporation to enter into certain hedging transactions. However, income derived from speculative trading or from the sale of commodities will not qualify.
- Dealing in securities (including derivatives) as agent for a non-resident of Canada.
- Providing financial advice, other than legal, accounting or tax advice. Legal, accounting or tax advice that can reasonably be considered ancillary and incidental to the financial advice is allowed.
- Managing, for a fee or commission, foreign exchange activities.
- Managing, for a fee or commission, investments.
- Managing for residents, for a fee or commission, investments in securities issued by a non-resident that are not listed on a Canadian stock exchange.
- Preparing stock market or other financial research for the exclusive use of non-residents, other than legal, accounting or tax research. Legal, accounting or tax research that can reasonably be considered ancillary and incidental to the financial research is allowed.
- Factoring, which is described in the IFAA as collecting trade accounts receivable where the accounts are receivable from a non-resident and have been purchased from a resident or non-resident without recourse.
- Leasing property, by means of a direct financing lease as defined in the Canadian Institute of Chartered Accountants Handbook.
- Distributing of film and television rights outside Canada, including ancillary rights. A production that is pornography is excluded by regulation.
- Providing administrative support services directly related to a financial activity of a non-resident financial business. Call centres, marketing and advertising are excluded by regulation. An internal support function, such as a computer help-desk, working directly with the non-resident employees, is not considered a call centre but an administrative support service.

- Providing of back-up office services, which are described in the IFAA as providing services, equipment and premises to continue the business operations of the non-resident in the event their primary equipment or premises become temporarily unusable.
- Insuring risks, other than life, sickness or accident insurance, on an arm's length¹ basis only, of or relating to non-resident persons and relating to property or events outside Canada. Captive insurance companies are exempted from the arm's length requirement.
- Collecting trade account receivables from non-resident persons for a fee or commission.

The following activities are limited to savings institutions³ unless otherwise noted.

- Handling import and export letters of credit at arm's length, including documentary and standby letters of credit and documentary collections, where not more than one party to the underlying transaction is a resident of Canada.
- Dealing in securities (including derivatives), as principal, with a non-resident if the corporation is either a savings institution or other corporation registered under the *Securities Act* as a dealer or underwriter (other than capital stock of the corporation or its affiliates).
- Dealing in securities (including derivatives), that are not listed on a Canadian stock exchange as agent of a resident, with a non-resident if the corporation is either a savings institution or other corporation registered under the *Securities Act* as a dealer or underwriter (other than capital stock of the corporation or its affiliates).
- Dealing in foreign exchange, where the corporation's primary business is dealing in foreign exchange on an arm's length basis only.
- Managing for a fee or commission other prescribed financial activities, exclusively for non-resident persons. This includes:
 - acting as trustee of a trust that, at all relevant times, is non-resident;
 - as an executor or administrator of the estate of a non-resident person, all the beneficiaries of which are at all relevant times non-residents;

- as guardian of the estate of a minor who is non-resident;
- as committee of the estate of a mentally incompetent person who is non-resident; and
- providing services in respect of the *Immigration and Refugee Protection Act* (Canada).

Notes:

¹ Arm's length, affiliate, and related persons have the same meaning as in the *Income Tax Act* (Canada).

² Accepting or making deposits, and making loans or borrowing in any currency can also be from a resident if the resident is:

- an IFB of any other registered corporation,
- an international banking centre business designated under section 33.1(3) of the *Income Tax Act* (Canada), or
- an international financial centre as defined in *An Act Respecting International Financial Centres* (Quebec).

³ A savings institution is defined in the *Interpretation Act* and means:

- banks,
- credit unions,
- trust companies, extra-provincial trust corporations authorized to carry on deposit business under the *Financial Institutions Act*, and
- corporations that are subsidiaries of banks and are loan companies to which the *Trust and Loan Companies Act* (Canada) applies.

CALCULATION OF THE TAX REFUND

A tax refund will only be paid to a corporation or IFA specialist after all British Columbia and federal income taxes for the taxation year are paid.

Corporations

A registered corporation may claim a tax refund of income taxes calculated as follows.

$$\text{Tax refund} = [A/(B \times C)] * D \text{ where}$$

- **A** is the corporation's net income for income tax purposes from its IFB. The IFB income does not include dividend income or assistance included in income under section 12(1)(x) of the *Income Tax Act* (Canada),
- **B** is the corporation's net income for income tax purposes, less any net capital losses and dividends deducted in determining the corporation's taxable income for the year,
- **C** is the percentage of taxable income allocated to British Columbia for the taxation year, and
- **D** is the corporation's British Columbia income tax (after deducting all tax credits and deemed payments).

IFA Specialists

An IFA specialist may claim a tax refund of income taxes calculated as follows.

Tax refund = $(A/B) * C * 75\%$ where

- **A** is the IFA specialist's net employment income from the registered corporation,
- **B** is the IFA specialist's net income earned in British Columbia for income tax purposes, and
- **C** is the IFA specialist's British Columbia income tax (after deducting all tax credits and deemed payments).

FILING REQUIREMENTS

To receive a tax refund, a qualifying corporation or IFA specialist should file a return with the ministry within 18 months of the end of their taxation year. The corporation or specialist must notify the ministry within 90 days of any income tax reassessment that may impact the calculation of the tax refund.

NEED MORE INFO?

This bulletin is provided for convenience and guidance.

For further information, please contact:

**Ministry of Small Business and Revenue
Income Taxation Branch
PO Box 9444 Stn Prov Govt
Victoria BC V8W 9W8**

**Telephone: 250 953-3082
Fax: 250 356-0434**

**Email questions to:
ITBTaxQuestions@gov.bc.ca**

**Information is also on the web at
www.sbr.gov.bc.ca/itb While there, you
can subscribe to our free electronic update
service.**