

# Update

## Tax Law

September 21, 2007

### Canada/US Sign New Tax Treaty

The Minister of Finance (Canada) and the U.S. Secretary of the Treasury today signed the fifth protocol to the Canada-United States Income Tax Convention (the "Protocol"). The Protocol contains a number of new technical rules, including:

1. The elimination of withholding tax on cross border interest payments between unrelated persons. For interest paid between related persons, the exemption will be phased in over three years. The exemption does not, however, apply to participating interest; and
2. The extension of treaty benefits to U.S. resident members of U.S. limited liability companies and the denial of treaty benefits in respect of certain hybrid structures.

Also, it appears that the Limitations of Benefits article (the treaty anti-avoidance provision previously only applicable to payments made by U.S. residents) will now apply to payments made by Canadian residents. This may significantly increase administrative compliance burdens in respect of cross border payments.

Generally, the Protocol will be effective (i) in respect of withholding taxes, the first day of the second month that begins after the later of January 1, 2008 and the date the two governments ratify the Protocol, and (ii) in respect of other taxes, for taxation years beginning after ratification.

If you have any questions with respect to the foregoing, please do not hesitate to contact:

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