



Doing Business in Canada

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KPMG ENTERPRISE™

AUDIT ■ TAX ■ ADVISORY

DOING BUSINESS IN CANADA



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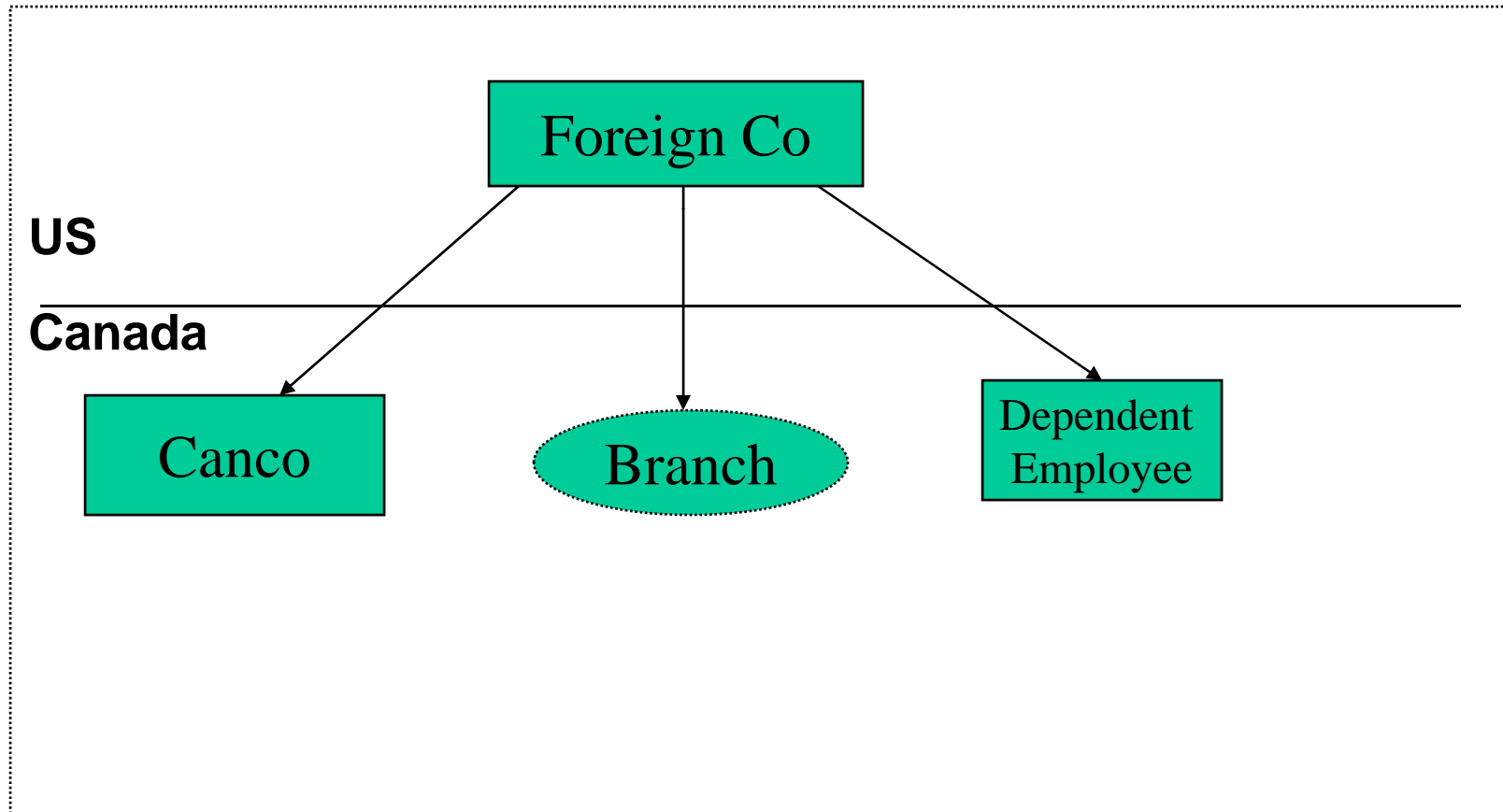
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Inbound Investment to Canada





Inbound Investment

- **Carrying on business in Canada**
 - Domestic rules
 - Treaty application
- **Subsidiary vs. branch**
- **Repatriation alternatives**
- **Miscellaneous taxes**



Liability for Canadian Tax

- **Canadian residents**

- Subject to tax on worldwide income

- **Non-residents**

- Subject to Canadian tax on certain Canadian sources of income



Non-residents

•Tax payable by a non-resident person who:

- Was employed in Canada or
- Carried on business in Canada or
- Disposed of taxable Canadian property



Carrying on Business in Canada: Domestic Rules

•What constitutes carrying on business in Canada?

- No specific definition in the Income Tax Act of “carrying on business”
- Common law principles apply
- Question of fact
- “business” defined as including profession, calling, trade, manufacture or undertaking of any kind whatever and includes an adventure or concern in the nature of trade
- Extended meaning of “carrying on business in Canada”



Carrying on Business in Canada: Domestic Rules

•What does not constitute carrying on business in Canada?

- Purchasing goods in Canada and exporting them out of Canada in the same form
- Selling goods or supplying services to a person in Canada
- Advertising goods for sale in Canada
- Holding property for investment in Canada as a passive investment



Carrying on Business in Canada: Domestic Rules

- **Business income vs. property income**
 - Question of fact
 - Limited administrative guidance
 - Degree of activity
 - Time, attention, labour



Carrying on Business in Canada: Domestic Rules

- **Canadian source property income earned by a non-resident**
 - No ‘regular tax’ as for business
 - Withholding tax instead
 - 25% domestic rate on such payments as
 - Interest
 - Rents, royalties
 - Dividends
 - Estate or trust income
 - Withholding rate may be reduced by applicable tax treaty



Carrying on Business in Canada: Tax Treaties

- **Business profits are generally only taxable if person carries on business through a permanent establishment in Canada**
- **What is a permanent establishment?**
- **Fixed place of business including a place of management, branch, office, factory, workshop, mine or well etc.**
- **Includes a building site or construction project lasting longer than 12 months**



Carrying on Business in Canada: Canada-US Treaty

- **Protocol to the Treaty – 2008**
- **PE exists if US service provider is present in Canada >183 days in any 12 month period**
- **Revenue test and connected project test**
- **Starts in 2010**



Subsidiary vs. Branch

What is the difference?

• **Subsidiary and branch – Canadian tax liability**

- Federal tax @ 19% (2009)
- Provincial tax @ 10% - 16%
- Provincial capital tax – some provinces
- Dividend withholding/branch tax @5% up to 25%



Repatriation Alternatives

- **Dividend**
- **Return of paid-up capital**
- **Loan repayment**
- **Low-interest bearing loan**
- **Management fees**
- **Royalty**



Miscellaneous

- **Scientific Research and Experimental Development**
- **GST**
- **Provincial sales taxes**
- **Payroll taxes – vary by province**

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