Canada
THE ST-LAWRENCE RIVER IN WINTER
FOLLOWING A SNOW STORM IN QUEBEC CITY
THE OLD QUEBEC
THE LEGAL SYSTEMS

- Québec: Civil Law
  Quebec civil code -1994

- The rest of Canada: common law
The official languages

- Federal: French and English
- Quebec: French
- New Brunswick: French and English
91(3) grants Federal taxing powers
The raising of Money by any Mode or System of taxation

91(2) grants Provincial taxing powers
Direct Taxation within the Province in order to the raising of a Revenue for Provincial Purposes.
Federal taxation

- Income Tax Act
- Finance department is responsible for tax policy and prepares the budget
- Canada Revenue Agency (CRA) is responsible for the administration of the Income Tax Act (1985 as amended)
- Public documents: Bulletins, Circular and Decisions
- Other documents (memorandum, opinions…) only available with private database!!! Is this a transparent system?
Provincial Taxation

- Quebec: Taxation Act, c. I-3
  - Quebec collects its own tax (Revenu Quebec)
  - 2 tax returns

Other provinces: For individuals: only one tax return (specific to each province)

Ottawa collects
- the individual tax (federal and provincial (except Quebec), reform 2000 TONI system)
- the corporate tax (federal and provincial except for Alberta)
Sales tax : GST and PST (TVQ)

- Tax is not included in the price of goods
- Goods and services tax (federal) = 5 %
- Quebec sales tax = 7.5% (8.5 % in 2011)
- Harmonized Sales Tax (HST) = 13% (Nova Scotia, New Brunswick, Newfoundland. Ontario and British Columbia (12%) will join HST on July 1st, 2010)
- Other provinces : Old model of sales tax (variable rates). They refuse the HST because it broadens the tax base.
- Alberta 0 %
PST (TVQ) = Taxing a tax

- PST (TVQ) Quebec sales tax applies on the cost of the product plus the GST

- Ex: cost of the product = 100 $
- GST = 5 $
- PST = 7.5% \times 105$ = 7.87 $
Canadian federalism: Fiscal Imbalance

- Definition

- Public debt from 1996 to 2008
  - Federal: 562 to 467 billion dollars
  - Quebec: 64 to 126 billion dollars
Recommendations

- The provinces must have additional financial resources to address the needs within their fields of jurisdiction.

- New tax room needed for provinces
The federal solution: improvement of the equalization payments

- Unconditional payments made by the federal governments in order to enable less prosperous provinces to provide their residents with public services that are comparable to those in other provinces.

- In 2009, Ottawa distributed 14.3 billion dollars in all provinces except British Columbia, Alberta, Saskatchewan, and Newfoundland.

- First time since 1957 (introduction of equalization) that:
  - Ontario benefits from the programme (car industry)
  - Newfoundland (1949) does not benefit from the programme (oil).
What’s in it for Quebec ??

- In 2009-10, Quebec gets 8,3 billion dollars, i.e. 4 billion more than in 2004.
- Quebec wants more fiscal room in order to create economic stability.
- Compared to Ontario: public services cost 17,5 billion dollars more in Quebec than Ontario (daycare, education, health…)
- Quebec Global Expenses in 2009-2010 : 59.9 billions (plus interest on debt)
  - 26,8 billions in health
  - 14,4 billions in education
Example of federal intrusion through the tax mechanism

- Medical expense tax credit (15% of the expense)
- Health is provincial jurisdiction
- Ineligible cap: 3% of income or 2024 $
- Cost: 950 million $ per year
- Private health care system funded through public funding
- Benefits those who can afford the expense
  - Ex: private homes
Example: contract of employment? Concept different in civil law and common law

How should the Income Tax Act be interpreted?

Complementarity or Uniformity?
Contract of service or contract for services? (employment or independant contractor)

“With respect to the nature of the contract, the judge's answer was correct, but, in my humble opinion, he arrived at it incorrectly. He did not say anything about the provisions of the Civil Code of Québec, and merely referred, at the end of his analysis of the evidence, to the common law rules”
"When the Civil Code of Québec came into force in 1994, followed by the enactment of the Federal Law - Civil Law Harmonization Act, No. 1, SC 2001, c. 4 by the Parliament of Canada and the addition of section 8.1 to the Interpretation Act, R.S.C., c. I-21 by that Act, it restored the civil law of Quebec to its rightful place in federal law, a place that the courts had sometimes had a tendency to ignore."
Section 8.1 of the *Interpretation Act* came into force on June 1, 2001. It codified the principle that the private law of a province and a federal statute are complementary, which had been recognized (see *St-Hilaire, supra*) but had not always been put into practice.

When that section came into force, the immediate effect was to restore the role of the civil law in matters under the jurisdiction of this Court, to bring to light how the common law might have been borrowed from, over the years, in cases where Quebec civil law applied or should have applied, and to caution us against any such borrowing in future.

The exercise, however, is not a matter of comparative law, and the ultimate objective is not to achieve a uniform result.
8.1 Both the common law and the civil law are equally authoritative and recognized sources of the law of property and civil rights in Canada and, unless otherwise provided by law, if in interpreting an enactment it is necessary to refer to a province's rules, principles or concepts forming part of the law of property and civil rights, reference must be made to the rules, principles and concepts in force in the province at the time the enactment is being applied.
“In the article entitled [TRANSLATION] "The Federal Court of Appeal's pussyfooting in the application of federal legislation in Quebec", supra, the authors concluded that our Court was pussyfooting around the issue of how Quebec private law supplements federal law. It is perhaps of some use to underline the fact that the source of this pussyfooting was the federal Department of Justice, of which one of the two authors was a part".
[21] In fact, in *Construction Bérou Inc. v. The Queen*, 99 D.T.C. 5841, heard on May 13, 1999, the Department strenuously argued that Quebec civil law had to be applied as supplementary law so as to prevent Quebec taxpayers from making deductions that other Canadian taxpayers everywhere else in Canada could make.

[22] However, one month later, on June 16, and still in an attempt to prevent Quebec taxpayers from making certain deductions, this same Department argued in *Her Majesty the Queen v. Mont-Sutton Inc.*, A-764-95, June 29, 1999 (F.C.A.), that the *Income Tax Act* had to be uniformly applied to all Canadians, no matter what provincial law stated.
“It is obvious that our Court did not appreciate the fact that, in the public interest, the executive branch argued one thing and then the contrary on the same issue within the space of one month, with the decided intent of winning in both cases.”
Federal recognition of civil law

- Additions to the Federal Income Tax Act of civil law concepts
Subsection 248(3)

- Property subject to certain Quebec institutions and arrangements

(3) For the purposes of this Act, if property is subject to an institution or arrangement that is described by this subsection and that is governed by the laws of the Province of Quebec, the following rules apply in respect of the property:

(a) if at any time property is subject to a usufruct, right of use or habitation, or substitution,

(i) the usufruct, right of use or habitation, or substitution, as the case may be, is deemed to be at that time

(A) a trust, and

(B) where the usufruct, right of use or habitation, or substitution, as the case may be, is created by will, a trust created by will...
Subsection 248(9)

“release or surrender” means

(a) a release or surrender made under the laws of a province (other than the Province of Quebec) that does not direct in any manner who is entitled to benefit therefrom, or

(b) a gift *inter vivos* made under the laws of the Province of Quebec of an interest in, or right to property of, a succession that is made to the person or persons who would have benefited if the donor had made a renunciation of the succession that was not made in favour of any person,
Use of interprovincial schemes for aggressive tax planning

- Quebec Shuffle and Quebec Truffle
The Quebec Shuffle

Tax free transfer of shares of a corporation into a corporation residing in another province (Ontario)

Using the tax free provision at the Quebec level but yet, recognizing the gain at the federal level.

No immediate tax in Quebec

Under Ontario law : The cost of the asset acquired = cost under federal law = total avoidance of the provincial tax
The Quebec Truffle - OGT Holdings Inc.- (Quebec Court of Appeal) - Inbound or Outbound

- Residence of trust in one province
- Beneficiary in another province
- Federal election as to which of the trust or the beneficiary assumes the tax relating to income or gains of the trust
- Under Quebec law, federal election not effective and a different election is made
Residents of a province other than Quebec establish a trust in Quebec.

Election
- for Quebec tax purposes: election that income and gains of the trust are taxable in the hands of the beneficiaries, i.e. outside of Quebec; Quebec cannot tax those beneficiaries because not resident in Quebec
- For federal tax purposes and for purposes of the beneficiaries' home province, election that trust income taxable in the hands of the trust, i.e. in Quebec. The other province cannot tax beneficiary because it is trust income.

Therefore, provincial tax is avoided.
Outbound Truffle

- Residents of Quebec establish a trust in another province.

- Election:
  - For Quebec tax purposes, designation that trust income taxable in the hands of the trust, i.e. outside of Quebec: Quebec cannot tax non resident beneficiaries.
  - For federal tax purposes, and hence for purposes of the trust's province of residence, designation is made that trust income taxable in the hands of the beneficiaries, i.e. in Quebec.

- Provincial tax would be avoided.
Aggressive tax planning: Quebec’s position

Discussion paper: January 2009

Quebec’s new Law

- Compulsory disclosure of arrangements resulting in a tax benefit, that are covered by a confidentiality agreement between the taxpayer and his advisor or for which the remuneration of the advisor is conditional on or proportional to their success;

- Tax benefit of $25 000 or more for the taxpayer, or in an impact on the income of the taxpayer or the partnership, as the case may be, of $100 000 or more,

- Three-year extension of the period of limitation where the GAAR applies, and the possibility of avoiding such extension through disclosure;

- Regime of penalties applicable to taxpayers and promoters where the GAAR applies, which can be avoided through disclosure. ($10 000 that will rise by $1 000 per day late, as of the second day late, to a maximum of $100 000).

- For assessment purpose, suspension of period of limitation if taxpayer does not disclose.
Change to **GAAR (Quebec)**
the following are not *bona fide* purposes:

- The reduction, avoidance or deferral of tax or other amount payable under a Québec law other than the *Taxation Act*, a law of another province of Canada or a federal law
And then what?

- No reaction of the federal government
- No Information of taxpayers for ATP
- Australia: Taxpayer Alerts
  - Example: TA 2009/21 (R&D tax offset abuse)
Taxation of « Indians »

- Subsection 91 (24) of the Canadian Constitution grants the federal government legislative power on « Indians, and Lands reserved for the Indians »

- From 1763, the Crown has always acknowledged that it is honour-bound to shield Indians from any efforts by non-natives to dispossess Indians of the property which they hold _qua_ Indians.
Property exempt from taxation

87. (1) Notwithstanding any other Act of Parliament or any Act of the legislature of a province, but subject to section 83 and section 5 of the First Nations Fiscal and Statistical Management Act, the following property is exempt from taxation:

(a) the interest of an Indian or a band in reserve lands or surrendered lands; and

(b) the personal property of an Indian or a band situated on a reserve.
Indian Act …

(2) No Indian or band is subject to taxation in respect of the ownership, occupation, possession or use of any property mentioned in paragraph (1)(a) or (b) or is otherwise subject to taxation in respect of any such property.
Question to be determined

- Where is the property located?
- Is the income "intimately connected" to that life?
Shilling v. R (1999 FC, 1st instance)

- Before 1972, the Crown's position was that the employment income of an Indian was exempt from taxation only if the Indian lived and worked on a reserve.

- In 1972 the Crown adopted another position; the focus became the place where the duties of employment were performed. The place of residence of the employee was irrelevant, as was the location of the employer.

- Later, the location of the employer became the focus.
First, even though income tax is a tax on persons, it is levied "in respect of" property, and for tax purposes, income is property.

Section 87 should be understood as part of the provisions contained in sections 87-90 of the Indian Act that were designed to protect Indians in various ways from the erosion of their economic base, namely reserve lands and personal property there belonging to an Indian.
Commercial stream excluded

- These exemptions do not apply when Indians choose to acquire and hold personal property "in the commercial mainstream" as opposed to on a reserve.
Recalma (FCA 1998)

- Whether investment income exempt from taxation?

- The money had been invested in securities through a Bank of Montreal branch located on a Squamish Band Reserve in West Vancouver. The purpose of using this branch was both to support Native economic advancement as well as to obtain certain tax advantages.

- Was the income earned "integral to the life of the Reserve", was it "intimately connected" to that life, should it be protected to prevent the erosion of the property held by Natives qua Natives?
Recalma…

- Where investment income is at issue, it must be viewed in relation to its connection to the Reserve, its benefit to the traditional Native way of life, the potential danger to the erosion of Native property and the extent to which it may be considered as being derived from economic mainstream activity.

- Investment income, being passive income, is not generated by the individual work of the taxpayer. In a way, the work is done by the money which is invested across the land.

- To hold otherwise would open the door to wealthy Natives living on reserves across Canada to place their holdings into banks or other financial institutions situated on reserves and through these agencies invest in stocks, bonds and mortgages across Canada and the world without attracting any income tax on their profits.

- We cannot imagine that such a result was meant to be achieved by the drafters of section 87. The result may, of course, be otherwise in factual circumstances where funds invested directly or through banks on reserves are used exclusively or mainly for loans to Natives on reserves.
The connecting factors

- Where the income is employment or salary income, the residence of the taxpayer, the type of work being performed, the place where the work was done and the nature of the benefit to the Reserve are given great weight.

- Where the income is unemployment insurance benefits, the most weighty factor is where the qualifying work is performed.

- Where business income is involved, most weight was placed on where the work was done and where the source of the income was situated.
CRA 1994 Guidelines for exempt income

- Guideline 1:
  - When at least 90% of the duties of an employment are performed on a reserve
Guideline 2

- THE EMPLOYER IS RESIDENT ON A RESERVE; AND

- THE INDIAN LIVES ON A RESERVE
Guideline 3

- MORE THAN 50% OF THE DUTIES OF AN EMPLOYMENT ARE PERFORMED ON A RESERVE; AND

- THE EMPLOYER IS RESIDENT ON A RESERVE, OR THE INDIAN LIVES ON A RESERVE;
Commercial mainstream principle

- In *Southwind*, an Indian lived and kept his offices on reserve, but his business income was considered to be located off-reserve because he provided his services to non-Indians/bands and because his income-earning activities took place off-reserve, and thus the business was in the commercial mainstream.

- It seems that the CRA may be applying *Southwind*’s “commercial mainstream” principle to employment income, apparently on the basis that this principle would apply if the Indian had been earning income as a proprietor rather than as an employee.

- Also, **CRA now appears to be shifting its approach**, looking at “connecting factors” more in terms of how the exemption may **benefit the reserve community as a whole** rather than simply in terms of the income’s connection to the reserve itself.
A few canadian tax rules

- Residency is the core factor
- Worldwide taxation for canadian residents
- Individuals: question of fact or sojourn of 183 days or more in the year
- Corporation: incorporated in Canada or central management and control in Canada
Non resident taxed on canadian source income

- 87 tax treaties
- One Tax Information Exchange Agreement (Netherland Antilles)
Residency

- **Individuals**
  - Based on facts
  - Citizenship not an important factor
  - For temporary stay of 183 days or more

- **Corporations:**
  - Created in Canada
  - Common law test: Management and control
Residence of a trust

Up to recently, application of the Thibodeau case [78 DTC 6376] :
- The residence of the trustees determines the residence of the trust

In 2009: Garron Estate (2009 DTC 1287)
- 162 I conclude, then, that the judge-made test of residence that has been established for corporations should also apply to trusts, with such modifications as are appropriate. That test is "where the central management and control actually abides."
I conclude, then, that the judge-made test of residence that has been established for corporations should also apply to trusts, with such modifications as are appropriate. That test is "where the central management and control actually abides."

Trustee resides in Barbados but trustee has limited role in the management of the Trust.
Federal individual rates (progressive)

- 15% on the first 40,970 $
- 22% between 40,970 $ and 81,941 $
- 26% between 81,941 $ and 127,021 $
- 29% in excess of 127,021 $.
Quebec individual rates

- **Taxable income** | **Rates**
  - Up to 38 570 $ | 16 %
  - 38 571 $ to 77 140 $ | 20 %
  - 77 141 $ and up | 24 %
Corporate tax

- Federal: (business income)

- 2007 2008 2009 2010 2011 2012
  22.12% 19.5% 19% 18% 16.5% 15%
Corporate Rates (Québec)

- Active business income

- 2005 2006 2007 2008 2009
  - 8.9%  9.9%  9.9%  11.4%  11.9%
Small business rates

- 500 000 $ of business income for Canadian controlled private corporation
  - Federal  11 %
  - Québec  8 %
Impact of integration principle

- Integration of corporate and individual shareholder income: no double taxation through the dividend tax credit allowed to the individual equivalent to a theoretical corporate tax paid (benefits for tax free dividends received from offshore sub)

- Between canadian corporations: tax free dividends for corporations (10% interest required) from business income
Territorial taxation

Like most OECD countries, Canada does not tax profits earned by foreign affiliates from the conduct of an active trade or business.

Up to recently, this privilege of paying dividends to Parentco free of Canadian tax was restricted to treaty countries.
DOING BUSINESS ABROAD

- Resident corporations doing business abroad get a foreign tax credit for foreign taxes paid

Amount of credit limited to Canadian taxes paid
Creation of an offshore corporation

If corporation located in treaty country: tax free repatriation of dividends to Parentco in Canada (exempt surplus) if paid with business income.

Up to recently, if located in non treaty country: dividends repatriated to Canada (Parentco) are included in Canadian income (taxable surplus) but Parentco get a foreign tax credit.

- FAPI Rules: Canadian residents taxed on income earned by non resident entity (corporation or trust) on passive income when conditions are met.
Use of Barbados corporation

- Tax treaty with Canada
- International Business Company in Barbados: tax rates: 1% - 2.5%
- Tax free dividends paid to Canadian Parentco
- Canadian shareholders (individuals) get the dividend tax credit on the dividend they receive…
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<td>198,4</td>
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<td>38,3</td>
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<td>Barbados</td>
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2007 Federal budget

- End of the double dip deduction by adding section 18.2 to the Act applicable in 2012

- Tax Information Exchange Agreement

- Creation late in 2007 of Advisory Panel on international matters
Finance Minister on the need for 18.2 in the 2007 Budget

- « Both the double dip and the tower structure make investment outside Canada less costly than investment in Canada. 

- The mismatch between the interest deduction in Canada and the non-taxability of foreign-source earnings acts as an incentive to Canadian business to locate new operations - and the jobs they provide - in other countries, rather than in Canada. »
Double dip example given by the Finance Minister

**Figure 1: “Double Dip” Financing Structure - Example**

**Purpose:** To finance Sourceco with debt (reducing or eliminating country S tax) and to obtain an extra interest deduction to shelter Canco’s Canadian income from tax.

**Method:**
- A. Canco borrows from Bank.
- B. Canco contributes capital to Havenco.
- C. Havenco lends to Sourceco.

**Tax effects:**
- d. Sourceco deducts interest in country S (Havenco pays little or no tax on interest income).
- e. Havenco pays non-taxable dividends to Canco.
- f. Canco deducts interest.

**Summary:**
- No tax payable in Canada (or country S, to extent of d) on Sourceco income.
- Only tax paid is Havenco’s low (or nil) local tax, not of any country S withholding tax.
- Canco’s deduction of f offsets Canadian tax on other income.
Tax information exchange agreement: To sign or not to sign?

- The carrot?
  - Tax free dividends to Canadian Parentco

- The stick if not signed?
  - All income considered FAPI
  - But…before we tax, we have to find out the information!!
The 2008 Advisory Panel recommendation on 18.2

- Abolish new 18.2
- Canadian businesses need flexibility in raising capital and structuring the financing of their foreign acquisitions and expansions to be competitive with businesses based in other countries.
For the past 20 years, the portion of stock of Canada’s direct investment abroad in treaty countries has ranged between 87% and 94% and of the total amount of exempt and taxable surplus dividends paid by foreign affiliates of Canadian companies between 2000 and 2005, about 92 percent were exempt.

**Recommendation:** Broaden the existing exemption system to cover all foreign active business income earned by foreign affiliates and no resort to accrual taxation for foreign active business income if a TIEA is not obtained.
Dividends Received by Canadian Taxpayers from their Foreign Affiliates, by Surplus Account, 2000–2005 (millions of dollars)

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<tr>
<td>Exempt</td>
<td>5,531</td>
<td>8,320</td>
<td>8,990</td>
<td>11,731</td>
<td>9,676</td>
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<td>Taxable*</td>
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<td>1,016</td>
<td>527</td>
<td>765</td>
<td>688</td>
<td>1,288</td>
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<td>Other**</td>
<td>1,770</td>
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<td>1,289</td>
<td>1,918</td>
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<td>10,805</td>
<td>14,414</td>
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Dividends from Barbados?

- In 2000, 1.5 billion dollars received by Canadian corporations from Barbados subsidiaries (compared to 400 millions in 1990)
Members of the Panel

- Peter C. Godsoe, O.C. retired from the Bank of Nova Scotia on March 2, 2004
- Kevin Dancey: President and CEO of the Canadian Institute of Chartered Accountants, June 2006.
- Mr. Love: lawyer and Chairman and CEO of Legacy Private Trust
- Nick Pantaleo is an international tax services partner with PricewaterhouseCoopers LLP
- Finn Poschmann is Director of Research at the C.D. Howe Institute
- Guy Saint-Pierre retired as chairman of the board for Royal Bank of Canada in 2004
- Cathy Williams recently retired as Chief Financial Officer of Shell Canada Limited
2009 Budget: How to die before being born

- « Section 18.2 of the Income Tax Act, scheduled to come into force in 2012, constrains the deductibility of interest in certain situations where a Canadian corporation uses borrowed funds to finance a foreign affiliate and a second deduction for that interest is available in the foreign jurisdiction.

- Early action is being taken in relation to the Panel’s recommendation concerning section 18.2 because of the conclusions of the Panel on the potential effects of the provision on foreign investment by Canadian multinational firms, particularly in the context of the current global financial environment. Accordingly, it is proposed that section 18.2 be repealed ». 
Reaction of the minister on TIEA

- TIEA with Netherland Antilles that allowed this country to get out of the OECD grey list

- Current negotiations with: Anguilla, Aruba, Bahamas, Bahrain, Bermuda, British Virgin Islands, Cayman Islands, Gibraltar, Guernsey, Isle of Man, Saint Kitts and Nevis, Saint Lucia and Turks and Caicos Islands.
What does France do?

- The pressure grew in October 2009 when the French banking industry committed to closing all their operations in jurisdictions that do not cooperate in tax investigations.

- BNP Paribas became the first bank to publicly commit to the boycott of grey list countries. Panama and the Bahamas were most likely to be affected.
United States position?

- Stop tax have abuse Act (S. 506, H.R. 1265) (2007)
January 7th, 2010: Canada Revenue Minister says:

- "Canada recognizes that the advancement of transparency and exchange of information is critical to tax fairness and the integrity of the tax system, not only for Canada, but for countries around the world,"
- "Today, I confirmed Canada's continued commitment to the work of the OECD in the area of tax administration, in particular regarding the establishment of international standards for transparency and the effective exchange of information."
What does Canada do?

- We follow the examples given by former Prime Ministers
The story of Paul Martin, former Prime Minister (2003-2006)

- Family corporation: Canada Steamship Lines with ships registered in Bahamas
- Corporation resident in Liberia
- No tax treaty with Liberia
- Reaction of the Auditor general
- The Income Tax Regulations are modified in 1995 while Paul Martin is Canada’s Finance Minister
Use a Barbados corporation
Barbados International business company (IBC) is not covered by the treaty (section XXX)

XXX(3). “This Agreement shall not apply to companies entitled to any special tax benefit under the Barbados International Business Companies (Exemption from Income Tax) Act, Cap. 77 or to companies entitled to any special tax benefit under any similar law enacted by Barbados in addition to or in place of that law.”

This is not a problem for the Finance Minister
Regulation 5907(11.2)c is amended in 1996 (to allow tax free dividends)

- (11.2) For the purposes of this Part, a foreign affiliate of a corporation is, at any time, deemed not to be resident in a country with which Canada has entered into a comprehensive agreement or convention for the elimination of double taxation on income unless

- (a) the affiliate is, at that time, a resident of that country for the purpose of the agreement or convention;

- (b) the affiliate would, at that time, be a resident of that country for the purpose of the agreement or convention if the affiliate were treated, for the purpose of income taxation in that country, as a body corporate;

- (c) where the agreement or convention entered into force before 1995, the affiliate would, at that time, be a resident of that country for the purpose of the agreement or convention but for a provision in the agreement or convention that has not been amended after 1994 and that provides that the agreement or convention does not apply to the affiliate.
The Mulroney Story (PM 1984 – 1993)

- German-Canadian lobbyist Karlheinz Schreiber paid CAD 300,000 $ to former Canadian Prime Minister Brian Mulroney.

- Schreiber said that he hired Mulroney to help establish a Quebec factory to build light-armored vehicles for German project but that Mulroney failed to advance the project.
Permanent voluntary disclosure program

- No criminal charges
- Permanent program
- Name of taxpayer does not have to be disclosed
- Possible negotiation on amount owed
Mulroney got a sweet deal

- When Schreiber hinted that Mulroney might have a tax problem, then Mulroney moved to declare the income to Revenue Canada and Revenue Quebec.
- Mulroney had his lawyer initiate a “no name” voluntary disclosure.
- Mulroney admitted receiving $75,000 for each of the 1993, 1994 and 1995 taxation years. Under the agreement, he then added $37,500 to his taxable income for the 1996, 1997 and 1998 tax years. While he paid interest, he didn’t pay a penalty.
- Mulroney’s name was only disclosed to tax officials after they had agreed to the deal.
UBS Scandal

- In the United States, 9000 taxpayers used the voluntary disclosure program (only valid for UBS investors up to October 15th 2009)

- In Canada, 10% of the US population: only 90 UBS clients came forward… Why?
Canada winning a gold medal...
The Chateau Frontenac
Thank you!

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